AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 111–367

EMERGENCY ECONOMIC STABILIZATION ACT: ONE YEAR LATER

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

ON

EXAMINING THE EFFECTS OF THE EMERGENCY ECONOMIC STABILIZATION ACT AFTER ONE YEAR

SEPTEMBER 24, 2009

Printed for the use of the Committee on Banking, Housing, and Urban Affairs

Available at: http://www.access.gpo.gov/congress/senate/senate05sh.html

U.S. GOVERNMENT PRINTING OFFICE

56–019 PDF WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

CHRISTOPHER J. DODD, Connecticut, *Chairman*

TIM JOHNSON, South Dakota
JACK REED, Rhode Island
CHARLES E. SCHUMER, New York
EVAN BAYH, Indiana
ROBERT MENENDEZ, New Jersey
DANIEL K. AKAKA, Hawaii
SHERROD BROWN, Ohio
JON TESTER, Montana
HERB KOHL, Wisconsin
MARK R. WARNER, Virginia
JEFF MERKLEY, Oregon
MICHAEL F. BENNET, Colorado

RICHARD C. SHELBY, Alabama
ROBERT F. BENNETT, Utah
JIM BUNNING, Kentucky
MIKE CRAPO, Idaho
BOB CORKER, Tennessee
JIM DEMINT, South Carolina
DAVID VITTER, Louisiana
MIKE JOHANNS, Nebraska
KAY BAILEY HUTCHISON, Texas
JUDD GREGG, New Hampshire

EDWARD SILVERMAN, *Staff Director*
WILLIAM D. DUHNKE, *Republican Staff Director*

AMY S. FRIEND, *Chief Counsel*
DEAN V. SHAHINIAN, *Senior Counsel*
CHARLES YI, *Senior Policy Adviser*
JULIE CHON, *Senior Policy Adviser*
MATTHEW GREEN, *FDIC Detailee*

MARK OESTERLE, *Republican Chief Counsel*
JEFFERY L. STOLTZFOOS, *Republican Counsel*

DAWN RATLIFF, *Chief Clerk*
DEVIN HARTLEY, *Hearing Clerk*
SHELVIN SIMMONS, *IT Director*
JIM CROWELL, *Editor*

C O N T E N T S

THURSDAY, SEPTEMBER 24, 2009

	Page
Opening statement of Chairman Dodd	1
Prepared statement	3
Opening statements, comments, or prepared statements of:	
Senator Shelby	3
Senator Brown	
Prepared statement	57

WITNESSES

Herbert M. Allison, Jr., Assistant Secretary for Financial Stability (TARP), Department of the Treasury	5
Prepared statement	58
Responses to written questions of:	
Chairman Dodd	122
Neil M. Barofsky, Special Inspector General, Troubled Asset Relief Program	41
Prepared statement	97
Responses to written questions of:	
Chairman Dodd	122
Senator Shelby	123
Gene L. Dodaro, Acting Comptroller General, Government Accountability Office	43
Prepared statement	104
Responses to written questions of:	
Chairman Dodd	127
Senator Shelby	128
Elizabeth Warren, Chair, Congressional Oversight Panel for the Troubled Asset Relief Program	45
Prepared statement	119
Responses to written questions of:	
Chairman Dodd	129

EMERGENCY ECONOMIC STABILIZATION ACT: ONE YEAR LATER

THURSDAY, SEPTEMBER 24, 2009

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee convened at 9:40 a.m., in room SD–538, Dirksen Senate Office Building, Senator Christopher J. Dodd (Chairman of the Committee) presiding.

OPENING STATEMENT OF CHAIRMAN CHRISTOPHER J. DODD

Chairman DODD. The Committee will come to order. Let me welcome all of our colleagues here this morning and our witnesses.

Let me also welcome my very good and dear friend of many years, Judd Gregg. Judd, we welcome you to the Committee. Judd and I served on committees together. We serve on the Health, Education, and Labor Committee, and together, we went through the marathon markup earlier this summer. I guess you are going through it again—no, you don't have to go through that again, I guess——

Senator GREGG. Fortunately, not.

Chairman DODD. ——but we are a delighted you are a part of us. We are getting a lot of Governors on this Committee here, I can only say.

[Laughter.]

Chairman DODD. Look at the smiles here, the Governors smiling around the table here, the possibility of being involved in this. Well, Judd, we are glad you are with us, and thanks for joining us.

We will miss Mel Martinez. Mel did a great job on the Committee. He was invaluable to us as a former Secretary of HUD and brought some wonderful perspectives to housing issues and others as a Member of the Committee, and so we wish him well. But again, Judd, we are delighted to have you with us in this process.

I want to make a couple of opening comments. I will turn to Senator Shelby, our former Chairman of the Committee, and then we will turn to our witnesses, following the Corker rule that unless Members insist upon being heard before we hear from our witnesses, we will recognize them at their appropriate time in the process and go forward to——

Senator SHELBY. Mr. Chairman, that is an unwritten rule, though——

Chairman DODD. It is the unwritten Corker rule, I call it here. Look at him smile. He smiles every time I mention that.

[Laughter.]

Chairman DODD. There is the Byrd rule and the Corker rule. We just have different rules along the way.

Well, good morning, everyone. A little over a year ago, Treasury Secretary Henry Paulson, Federal Reserve Chairman Ben Bernanke, and SEC Chairman Chris Cox came to Congress with an urgent message. The American economy was on the brink of total collapse and they needed $700 billion of taxpayer money to stop it.

Already, our Nation, of course, as all of us know here, was in the midst of an economic crisis that threatened small businesses' ability to make payroll, cost us more than half-a-million jobs in our Nation, and turned the American dream of home ownership into a nightmare for many. It kept students from getting college loans and wiped out hundreds of billions of dollars in savings that Americans were counting on for their retirement. With financial giants toppling what seemed like every day and with businesses large and small suddenly unable to access the credit they needed to operate, we clearly needed to act.

But when the Bush administration's proposal emerged, it was clearly unacceptable. I know particularly Judd, myself, and Bob Corker and others were involved in those days and it was a wild 2 weeks that went through back a year ago, one matter after another. My colleagues may recall that the original proposal asked Congress pretty much for a blank check with no protections for taxpayers, those on whose account it was being drawn. The proposal included no Congressional oversight, even wanted to prohibit judicial administrative review of the Secretary's decisions.

In short, the Bush administration asked Congress to put up an unprecedented amount of taxpayer money and executive power under the unchecked control of one unelected individual with no guidelines to ensure that it would be used properly, without even so much as an office with a dedicated staff to keep track of where it was going. Doing nothing, obviously, was not an option, but neither was the proposal that we were submitted, at least initially.

The crisis demanded that we bring together members of the House, the Senate, Republicans and Democrats, and hammer out a better solution, and that is what happened over the ensuing several weeks. We fought hard to include taxpayer protections and meaningful oversight. We fought to ensure that if ordinary Americans who had done nothing wrong were going to pay for this stabilization effort, they would get to share in the benefits if companies became more profitable, an initiative driven by Senator Jack Reed, in fact, of our Committee. We required Treasury to put homeowners and the financial security of American families at the top of the agenda. And we established three oversight bodies that are before us today to keep an eye on what was happening in the ensuing weeks and months. And we made certain that we put first and foremost the principal that with this assistance to the financial sector would come real change so that a crisis like this wouldn't happen again.

I am glad that we had—are any of us glad that we had to spend this money? Absolutely not. It was a tragic time in our country, to go through that period of time. And do I share a lot of the anger and frustration that many of our colleagues and our fellow citizens felt at the time and still do in many quarters, that Wall Street

greed and regulatory neglect left taxpayers on the hook? All of us, I think, share in those emotions.

But I am also, I think, proud of the work that we did a year ago. It wasn't easy in the time constraints we were given. People stepped up. We did the best we could under the circumstances. Certainly, it was far from perfect. We all know that today, looking back. But in the time we were given, the circumstances we were confronted with, I think we did the right thing and I think history will prove that to be the case.

I am relieved that we have managed to bring our economy back from that brink. We are not talking about a depression any longer, a complete meltdown of the financial services sector. And I am more committed today than ever to taking action so that the American taxpayers who funded the effort aren't asked to clean up another mess they didn't make in the future in related matters.

We need to take action to restore America's confidence, sense of optimism, and their financial security by reforming a regulatory system that still continues to contain far too many gaps, loopholes, and redundancies. The 20th century regulatory structure has been outpaced by the 21st century innovations in the financial services industry, and if we don't fix it, we could be right back where we were a year ago, facing another dreadful choice between a massive outlay of taxpayer dollars or an unimaginable economic disaster for our Nation and others around the globe.

I look forward, obviously, to working with my colleagues. Senator Shelby and I are good friends. We have worked hard together on numerous issues. I have mentioned already several Members of this Committee. And again, I welcome you, Judd, to this effort because of your knowledge and background and experience as we try to navigate these waters in the coming weeks and months to try to respond to the challenge before us.

So with that, I thank my colleagues, and in a minute, after hearing from Senator Shelby, we will hear from our first witness, Herb Allison.

Senator Shelby.

STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Mr. Chairman.

We meet today to continue our oversight of the Troubled Asset Relief Program, or something we called TARP. Last year, during a critical phase of the financial crisis, as we all know, Treasury Secretary Paulson and Federal Reserve Chairman Bernanke came to Congress warning of an eminent economic disaster that could only be avoided by the immediate expenditure of massive amounts of taxpayer dollars. They argued that hundreds of billions of dollars were needed to purchase troubled assets from weakened financial institutions.

At the time, I expressed serious reservations about this plan because I did not believe that a massive and crude bailout bill was the most prudent course of action. Instead, at that time, I argued that we should first clearly and thoughtfully determine what had gone wrong. Only then could we hope to develop an effective plan of action.

That could have been accomplished in a relatively short period of time. It seemed apparent that this crisis would require a wide range of programs and actions to stabilize the financial markets. Had we recognized this at the outset and addressed each problem by order of priority and in a coordinated fashion, I believe our response would have been more effective and made better use of taxpayer resources.

Unfortunately, this was not the course we chose to follow. Weeks after the deadline for so-called "emergency action" had passed, we gave the Administration the massive check it requested, added some oversight provisions, and moved on. Almost immediately, our hasty actions produced a likely outcome. The Administration changed course entirely, abandoned the asset purchase concept, and adopted a plan to make direct capital injections into financial institutions.

When the Capital Purchase Program was not enough for some institutions, the Targeted Investment Program was created. When some institutions required even more assistance, the so-called "Systematically Significant Failing Institutions Program" was put in place. Finally, the TARP became the bail-out fund for the Auto Industry Finance Program, through which GM, Chrysler, and a large number of auto suppliers received assistance from the Federal Government. We certainly have traveled a long way from a Troubled Asset Purchase Plan to where we are today.

In addition, as I argued would be the case, TARP money did not address many of the core problems of our financial markets. The banking regulators had to contort banking law to create a program to allow the FDIC to guarantee billions of dollars of bank debt. The Treasury also had to initiate a Money Market Mutual Fund Rescue Program that was followed by a separate Federal Reserve Bank of New York program designed to achieve much the same thing. In addition, deposit insurance coverage amounts were significantly increased and the SEC banned short selling of the stocks of certain financial firms.

The Federal Reserve also began a series of efforts, as you will recall, to address problems in the commercial paper markets and has stated its intention to buy more than $1 trillion in mortgage securities. The Federal Reserve cut interest rates. In fact, the Fed has committed over $2 trillion from its balance sheet to address market instability.

Again, I believe a more deliberate process would have yielded a better understanding of the crisis and the need for particular actions. It would also have given the Congress the opportunity to participate more fully in the decision-making process. We are, after all, spending the American people's money.

Going forward, I believe we must continue to ensure that the program which the CBO is already estimating will cost taxpayers more than $200 billion is managed as well as possible. A great deal of work remains. The oversight entities should work diligently with Treasury and Mr. Allison to increase transparency and limit taxpayer losses. And as we approach the expiration of the TARP program, which is December 31, 2009, we must remain mindful of the original intent: Market stability. The Administration should not, I believe, pursue policy objectives through the TARP that are unre-

lated to that goal. In other words, the TARP should not be extended.

Thank you, Mr. Chairman.

Chairman DODD. Thank you very much, Senator.

In the absence of any other Members wanting to be heard at this juncture, we are going to introduce our first witness, and we thank him for being with us. Herb Allison, Jr., is the Assistant Secretary for Financial Stability in the Department of the Treasury. Prior to this position, he served as the President and Chief Executive Officer of Fannie Mae, when that company was taken under conservatorship in September of 2008. He has also served as the Chairman, President, and Chief Executive Officer of TIAA–CREF, a leading retirement services company. He had a long career at Merrill Lynch that began in 1971 and culminated in being elected President and Chief Operating Officer in 1997.

We thank you very much for your service to our country in this latest capacity and are anxious to hear your thoughts this morning, Mr. Allison.

STATEMENT OF HERBERT M. ALLISON, JR., ASSISTANT SECRETARY FOR FINANCIAL STABILITY (TARP), DEPARTMENT OF THE TREASURY

Mr. ALLISON. Chairman Dodd, thank you very much, Ranking Member Shelby and Members of the Committee. Thank you for the opportunity to testify before you today. As we approach the 1-year anniversary of the Troubled Asset Relief Program, or TARP, I welcome this chance to update you about the progress we have made in restoring our financial stability.

Let me start briefly with the challenges that we faced a year ago. We were in the midst of one of the worst periods in our financial history. Major institutions were in distress, credit markets froze, and we faced a run on money market mutual funds. In response, Congress took the difficult but needed step of creating TARP through the Emergency Economic Stabilization Act of 2008, or EESA, which gave the Treasury Department unprecedented authority to stabilize the U.S. economy.

The consequent actions taken last fall achieved the vital but narrow objective of preventing a meltdown of the financial system. But by the time President Obama took office in January, the Nation faced a full-blown economic crisis, as monthly job loss reached 60-year highs and home foreclosures accelerated rapidly. There was concern that we were headed toward a second Great Depression.

One year later, thankfully, that is not the case. Treasury has made the necessary investments to restore confidence in our banks, restart credit markets that are critical to American households and businesses, and support homeowners. We still have a long way to go before true economic recovery takes hold, but there is little doubt that we have moved back from the financial brink and toward economic recovery.

TARP has been central to those achievements over the past year. Of the $700 billion authorized for TARP by Congress, Treasury has announced programs totaling $644 billion, under which $444 billion has been committed to date. Throughout this process, our goal has

always been to recapitalize our financial system with as much private capital and as little taxpayer funding as possible.

Since the release of the bank stress test in early May, banks of all sizes have raised $80 billion in common equity and $40 billion in nonguaranteed debt. That enabled more than 30 banks to repay their TARP funds, returning over $70 billion to the general Treasury.

There are promising signs from other TARP programs, too. For instance, the Term Asset-Backed Securities Loan Facility, or TALF, operated by the Federal Reserve Bank of New York, has helped narrow spreads and improve liquidity in the markets that facilitate lending to consumers, students, and small businesses.

The Making Home Affordable Program, designed to prevent avoidable foreclosures, is on track to reach its goal of 500,000 trial mortgage modifications by November 1, and perhaps even earlier. We do recognize, however, that there is still much more to be done to help homeowners.

The weighty responsibility of the TARP mandate, to steady our financial system and visionally protect taxpayers' money, is one that my colleagues and I take very seriously. We have instituted strict controls over TARP investments and operations. The programs also benefit from regular and open communication with our four oversight bodies, and we have implemented fully or in large part the vast majority of their recommendations.

The question now is, what lies ahead? TARP was created as an emergency response to a major financial crisis. The use of these programs, by design, will decline as the financial system recovers. But we must remember that our economic recovery has just begun and significant parts of the system remain impaired.

Foreclosure and unemployment rates remain unacceptably high across the country. Small businesses are still grappling with unusually tight credit. And continued decline in real estate prices, both in the residential and the commercial markets, could put additional pressure on bank balance sheets and capital positions.

But ending the financial crisis is not primarily about helping banks. It is about restoring the mechanisms that provide opportunity to everyday Americans, to purchase or keep a home, to finance an education, or to expand a business.

It is with these goals in mind that we have created the programs in TARP and President Obama's Financial Stability Plan. Every day, we strive to meet these challenges to remain prudent investors on behalf of the American people.

Thank you again for the opportunity to testify, and I look forward to your questions.

Chairman DODD. Thank you very much. Thank you very much, Mr. Secretary, and again, we appreciate your presence here today.

I am going to ask the Clerk, why don't you put on 6 or 7 minutes and we will try and keep an eye on that so we get around to everybody here. We have pretty good participation this morning and I want to make sure we get to hear everyone.

Let me start off, if I can, Mr. Allison, with the Loan Modification Programs. I suspect what I am about to say could be repeated by almost everyone on this side of the panel, of the table here, and that is we get calls every day in our office from people who just

feel terribly frustrated about their ability to come out with some modification of their mortgages to try and stay in their homes, if they can. I know the Administration's plan is starting to ramp up, but literally, on a daily basis—and we are told maybe for different reasons now, given the unemployment rates, while they are not what they were in January, are still very high obviously, and that a lot of the foreclosure threats come more from that than, say, the subprime problems that existed a while ago.

And the question is, what is being done about it? What can we do? I just find frustration. I am hearing from some people that just mail notices or calls, or not the contacts with the actual people who are not yet delinquent but are on the verge of being so, catching it early could maybe work something out so you can people there. In some cases, maybe you can't at all, and I, for one, realize that is also a conclusion you ought to be able to reach. If so, then you move on and get the property moving, get it turned over. So there is some flexibility with all this.

I gather it is a lack of personnel in some cases, getting people trained, asking people in institutions and banks who have never really dealt with the volume we are facing today to deal with these matters, but I want to know if there is any—what thoughts are you giving to this as the Administration? Are you thinking about a moratorium, for instance? Some people are thinking about 3 months of a moratorium on foreclosures in order to give time for the ramping up of the individuals and so forth. I get uneasy about moratoriums because they could just forestall the inevitable and you can have a negative impact of unintended consequences in the marketplace if you do that.

Does it need more personnel? Do we need to demand that there is the kind of personal contacts? If you are paying fees, if you are getting fees as a servicer, are those fees being used to actually reach out to people to find out early enough on where they are in their ability to meet their obligations on their mortgages or not?

But what is presently going on is just not working, so I am very anxious to hear what plans, if any, the Administration has to address this problem, which appears to be growing larger again given some of the indications we have heard about a new wave of foreclosures coming to the country.

Mr. ALLISON. Thank you, Chairman Dodd. We certainly do share your concerns. We have seen the volume of trial modifications increase rapidly. As I mentioned in my testimony, we may actually exceed the target number of 500,000 trial modifications by November 1. Nonetheless, we are receiving complaints, as well, from homeowners who are anxious, who aren't receiving responses from their banks as fast as they would like.

We are publishing now statistics by bank on their efforts and their success in modifying mortgages. But we also are going to be soon publishing reports on the service quality by each bank, and we hope that that daylight being shown on their service quality is going to provide additional impetus for them to improve their service quality.

We also, in order to make sure that more people can get into this program and succeed in the program, we have to streamline the process of providing documentation from homeowners to their

servicers. We are trying to make that a simpler process and we are going to have significant progress, I think, in that over the next weeks and months. I think that is very important.

We also have to reach out more across the country to make sure people are aware of the program and of its features and they have an opportunity to take part.

So far, the servicers have contacted—sent inquiries to over 2 million people and we have offers out to over 500,000 people and trial modifications are now approaching 400,000. So we have made material progress over the last few months. But we are not by any means satisfied.

We had a meeting with all the servicers in late July. We are going to have another meeting in early October, bring them to Washington and spend a day discussing with them the various issues that you have so correctly pointed out.

Chairman DODD. A lot of this may be anecdotal, so I want to be careful. I haven't done any big surveys here. But I have heard, for instance, I have heard that Freddie Mac does a pretty good job of getting the personal contact with people who could be falling into a foreclosure situation, whereas I have heard FHA is doing a dreadful job at this. Again, that may be anecdotal, I don't know that, but it seems to me there seems to be an uneven application of the ability to—or the willingness to actually reach out to people.

Sending people a notice in the mail or making a phone call is not being proven terribly successful. But where there are personal contacts with people and making an evaluation of where people's abilities are to meet those obligations seems to be producing better results. Is the intention to do a lot more insisting upon personal contacts with these people or not? Where are we headed with that?

Mr. ALLISON. Yes, Chairman Dodd, that is the intention. There have been events held throughout the country in major cities and rural areas with bank services. We participated in a number of those as observers. Freddie Mac and Fannie Mae are out there, as well.

Modifying mortgages is a homeowner by homeowner operation. It is intensive. It requires personal counseling in many cases, and we need to reach out and contact as many people personally as possible. And some——

Chairman DODD. Well, I would appreciate hearing back on this, if you could. I would like to know specifically what is being done about that, because the complaints are mounting. I appreciate what you are doing, but I would like to get a far more frequent analysis of how that is working.

Mr. ALLISON. We will be happy to provide you information about that, Chairman.

Chairman DODD. Let me jump quickly, if I can, to the regional banks and the growing problem with commercial real estate, because we are hearing, all of us again, there is a wave coming in commercial real estate that poses some real additional threats to our economic recovery.

Many regional banks are reportedly in trouble, in part because of commercial real estate. One study by Canadian Observers predicts that over 1,000 U.S. banks could fail. The FDIC's list of troubled banks reportedly exceeds 400.

One, I guess, is could the failure of over 1,000 regional banks cause renewed financial instability of the level we have been talking about? If so, what are we doing, or are we doing all that we can to help these viable regional and community banks as we have done to the Nation's largest banks? They are sitting out there. They didn't cause any of this problem, in many ways, here, and yet are going to face a tremendous wave of difficulty.

And how do we intend to use TARP monies here to reduce this potential for instability, if, in fact, you agree that it would create a significant amount of instability in our economy, if, in fact, these numbers that people are talking about turn out to be accurate numbers? What plans do we have, if any, to assist our regional banks and community banks that we provided the same level for these large money-centered institutions?

Mr. ALLISON. Chairman Dodd, we have—first of all, last May, we reopened the Capital Purchase Program for smaller banks, banks with under $500 million of assets. We need them to be active in the commercial as well as the residential real estate markets.

Furthermore, the TALF program is aimed directly at the problem of restarting the securitization markets, which is so important to providing commercial and residential mortgage-backed securities to individuals and businesses, and that program has been quite successful.

We also expect to be launching the first of the Public–Private Investment Partnerships at the end of this month. We will have our first closing. And that is also intended to reignite trading in the mortgage-backed securities markets, both the residential and the commercial.

It is also very important that banks continue to replenish capital going forward. I know that the regulators are very much involved with the banks in dealing with the question of the impact, the potential impact of continued downturn in the commercial real estate market.

Chairman DODD. Well, thank you, and again, this is one we have got to maintain some close contact with the Administration on as this evolves.

In fact, I have some additional questions, if we get around to them, to the Public–Private Investment Program, but let me turn to Senator Shelby.

Senator SHELBY. Thank you, Chairman Dodd.

Mr. Allison, the Treasury Department thus far, according to my understanding, has sunk close to $50 billion into General Motors. The Congressional Oversight Panel recently reported that in order for the taxpayers' bailout to be repaid in full when Treasury sells its GM stock, GM would need to have a total market capitalization of $67.7 billion. As of yesterday, the market capital of GM was a mere $455 million, less than 1 percent of the target that would fully repay the taxpayers. For taxpayers to be fully repaid, General Motors' market capitalization would need to increase by about 14,000 percent—14,000 percent.

Given that GM is facing a challenging environment since its current market share of U.S. light vehicle sales has fallen to less than 20 percent, compared to a market share of more than 28 percent

in 2000, what is the likelihood, Mr. Allison, that Treasury will take a huge loss on its investments in GM?

Mr. ALLISON. Ranking Member Shelby, thank you for your question. I know that is very much on the minds of the American public, as well. A number of actions, as you know, were taken to save hundreds of thousands of jobs by rescuing General Motors and Chrysler, and at the same time, requiring them to restructure fundamentally so that they could compete more successfully going forward.

The success of those companies will depend on their management and their strategies. We are obviously very much very closely observing the progress of both of those companies. We are not, however, an active shareholder in those companies. We own shares in General Motors, but our intention is to divest those shares as rapidly as that is possible and not to get involved in the day-to-day operations of those companies——

Senator SHELBY. You are not an active shareholder, yet you are a shareholder, right?

Mr. ALLISON. We are a shareholder.

Senator SHELBY. Well, why aren't you an active shareholder if the American taxpayers' money is involved? It is part of your job to protect that money.

Mr. ALLISON. Yes. What we did, Senator, is to take very strong actions before the bankruptcy to ensure that they would come out as fundamentally different companies with much better prospects than they had before.

Senator SHELBY. Sure.

Mr. ALLISON. We are also observing very closely their progress. And we believe that there are possibilities for those companies to regain market share and to increase value for the taxpayers.

Senator SHELBY. I want to shift to AIG. The Government Accountability Office this week issued a report on AIG in which it stated, among other things, that it remains uncertain as to whether AIG will ever be able to fully repay the $180 billion in Federal assistance that has been extended to the company. In addition, the Congressional Budget Office has estimated that the Treasury will lose a sizable portion of the TARP funds it has invested in AIG.

From your perspective, how much do you expect the Government to lose on its bailout of AIG, and how long do you believe it will take for Treasury to divest its interest in AIG? I know they are tough questions.

Mr. ALLISON. Well, sir, I think first of all that the rescue of AIG was absolutely essential at the time to protect the financial system of the United States. I think the consequences of a sudden, unorganized failure of AIG would have been extremely damaging.

We, again, are monitoring our investment very closely. The company has a new board of directors. It has a new chief executive officer. They are working very hard to stabilize the insurance companies and reduce the risk in that company. And I think they have made substantial progress so far, but they still have a long way to go. And I think the eventual outcome is still unclear, but they have made notable progress, and we expect further progress going forward.

Senator SHELBY. I want to shift to Citigroup. Easier—not really. Citigroup has received more than $300 billion in financial support from the Federal Government, including $50 billion from TARP. This is exceptional financial assistance. Because the Treasury Department received significant equity stakes in Citigroup—36 percent, I believe—in exchange for this assistance, the Federal Government now has a major say in how Citigroup will operate. You are the large stockholder.

What steps is Treasury taking to restructure Citigroup to ensure that it does not present systemic risk or require additional taxpayer funding? It is still a sick bank.

Mr. ALLISON. Senator, first of all, again, we are not actively involved in the day-to-day management of Citigroup. We are, as you correctly say——

Senator SHELBY. Excuse me a minute. Let me interrupt you a minute. I did not mean to be—you are a 36-percent stockholder, the largest stockholder in Citigroup—that is, the taxpayer. Part of your job is to oversee how this company is run, and you just said, as I understood you, that you are not actively engaged in the running—or what—of Citigroup. And if you are not, why aren't you?

Mr. ALLISON. Well, sir, we first of all believe that the Federal Government's role should be limited to voting on certain matters as a shareholder, such as the election of directors and major corporate events. We believe that it is not the job of the Federal Government to be micromanaging companies. And, in fact, it is in the taxpayers' interest for the companies to have strong boards of directors and strong management. If the Government were to interfere too much, we actually might reduce the potential value of those companies.

Senator SHELBY. But looking at the history of Citigroup in the last 20 years, are you satisfied that Citigroup is going to grow strong and grow out of all this and pay all this money back? Or do you not have those concerns?

Mr. ALLISON. Well, again, Citigroup has made progress since the crisis in reducing risk in that company and strengthening its management and especially its board of directors. So we have seen progress in Citigroup, and we expect further progress in the months ahead.

Senator SHELBY. Well, my last question—I know my time is running. At a recent Congressional Oversight Panel hearing, Secretary Geithner observed that certain Capital Purchase Program investments are earning taxpayers a double-digit return. The Congressional Budget Office, CBO, however, estimates that the CCP alone will lose in excess of $20 billion. We will lose more than half of our investment in the car companies and AIG, they predict, and for the entire TARP program, we will lose more than a third, at least, of the $700 billion.

Do you believe that CBO's—the Congressional Budget Office—numbers are accurate? And if not, how do you differ with them?

Mr. ALLISON. Well, first of all, Senator, let me mention again that we have received over $70 billion of repayments and close to $80 billion of total payments of dividends and interest and so forth.

Senator SHELBY. That is over 10 percent? A little over?

Mr. ALLISON. Well, actually, in terms of the Capital Purchase Program, the total amount that was committed was $204 billion. We have received $70 billion of that money back. And the return of the banks that have completely repaid, including repurchasing their warrants, has been close to 18 percent.

On November 16th, we will be publishing the valuations of all the assets in the TARP program, and——

Senator SHELBY. This would be a complete picture?

Mr. ALLISON. Yes, sir.

Senator SHELBY. OK.

Mr. ALLISON. That will be a complete picture, so at that time you will be able to see what the returns have been so far.

Senator SHELBY. Thank you, Mr. Chairman.

Chairman DODD. Thank you very much, Senator.

Senator Tester.

Senator TESTER. Thank you, Mr. Chairman, and I want to welcome Mr. Allison to the Committee. It is good to have you back.

Mr. ALLISON. Thank you very much, Senator.

Senator TESTER. I very much appreciate the opportunity to ask you a few questions.

During the debate last fall on the TARP, I was concerned that there were not enough limitations on the TARP money, that it might end up in foreign banks. And then later on, we ended up dealing with the auto manufacturers, in particular, GM and Chrysler, and there was some concern by me that the money that would be given to them would not be spent domestically. And since it was taxpayer dollars, I thought it was important. In fact, I think at one point in time in the questioning of GM and Chrysler and Ford's execs, I asked the question, you know: Where is the money going to be spent? What is it going to be spent on? What country is it going to be spent in? Because, quite frankly, these were taxpayer dollars, and the economy here was tanking in a big, big way, and I thought the right thing to do was to spend it here.

In response to that, a few months after they received the $50 billion, GM went to the bankruptcy court and got a contract negated between Stillwater Mine with supplies, GM with palladium, got it thrown out so they did not have to live up to it. The only palladium mine in the United States. Instead, they wanted to use palladium and are using palladium from South Africa and Russia, and their reasoning for doing this was that they could pay back the TARP money quicker, even though a few months earlier they said they needed the money to keep their suppliers whole, of which the Stillwater Mine is one of those suppliers, 1,300 jobs, one of the largest employers in Montana, and these are jobs that have good health care benefits and good-paying wages.

I guess the question I have is: Do you think it was appropriate for GM, as one of their actions—well, actually one of their first actions out of the chute—to negate a contract with a U.S. company—a U.S. mine, I should say, so that they could do business with a foreign mine?

Mr. ALLISON. Senator Tester, first of all, we share your concern about maintaining jobs, not only in Montana but across the country, and that is one reason why the Obama administration has

launched the largest economic plan in the history of our country, as well as the financial stability program.

Again, with regard to General Motors, we are not taking an active role in the day-to-day management of that company, and we believe it is in the taxpayer's interest that we not do so. And as I have said, we have strengthened the management and the board at General Motors, and we do see progress. We, though, cannot get directly involved in decisions like the one that you talked about.

Senator TESTER. But in the spirit of the TARP dollars, who gets involved? Because the fact is this is a half-a-million-dollar hit a month to this mine. It is going to result, potentially, in some job loss. I cannot imagine it not. And it is absolutely shipping money outside the country. And GM will turn around and say, yeah, but we are recycling with a Pennsylvania firm—that also does all the recycling outside this country that could be done inside this country. And part of the whole idea from my perspective with the TARP money was maintaining our manufacturing base, and part of that manufacturing base is industries in this country that supply them.

So who does get involved? How do we hold GM's feet to the fire? I think we are about—and correct me if I am wrong, Mr. Chairman—a 60-percent owner in that company, if I am not mistaken.

Mr. ALLISON. I think, Senator, we have to look at the totality of the Obama administration's economic recovery programs, where there is a great deal of effort and funds being directed toward job training, toward maintaining jobs, toward unemployment insurance, and so forth. We have to get this economy growing again so that we can create more jobs. And we also have to assure that General Motors is in a position to grow and to employ more people down the road.

Senator TESTER. I could not agree with you more, and I guess the question is that I have a level of frustration in that GM, with taxpayer dollars, has chosen to do business with a mining operation that has very, very little environmental restrictions and very, very poor wages and basically sold our workers down the tube. My opinion.

And, I guess, how do we hold GM's feet to the fire? Or can it be done? Or do we just let them do their thing? I, quite frankly, have asked for their contracts to find out what they are paying for that palladium in South Africa and Russia, and we await that response, because I do not think they are private contracts anymore because this company is owned, a fair amount, by us, the U.S.

So the question is: Who can hold their feet to the fire? Or am I shouting into the wind, blowing in the wrong direction?

Mr. ALLISON. Well, sir, I think you are holding their feet to the fire right now by raising this issue as effectively as you are. I will take your concerns back with me and discuss it with my colleagues.

Senator TESTER. I appreciate that. I do very much appreciate that. It is just one of those things.

The purpose of the TARP funds—and you know—is to provide authority and facility to the Secretary so he can restore liquidity and stability to the financial system, protect home values, college funds, and retirement accounts. The list goes on. You know what they are. Keeping the original purpose of the act in mind, do you

believe this should be extended? Do you believe this act should be extended out?

Mr. ALLISON. That is a determination that the Secretary of the Treasury will make later on this year. I know——

Senator TESTER. What is your recommendation to him going to be?

Mr. ALLISON. This will be a decision that the Secretary will make. He will have a variety of inputs, and I know he is going to look at many different measures of the economy and the prospects of the economy and the financial system as he makes that decision.

Senator TESTER. Well, I also appreciate that. OK. Keep it in mind, all that.

That is good enough for now. Thank you, Mr. Chairman.

Chairman DODD. Thank you very much, Senator.

Senator Corker.

Senator CORKER. Mr. Chairman, thank you and, Mr. Allison, thank you for your service.

I want to not dwell on the past much, but I do want to say, you know, that the three components of TARP were to focus on our financial system. That was the purpose of it because of the liquidity crisis that existed. We were supposed to buy things of value, and the money that was returned was supposed to be used to reduce the deficit. And I would say that had we stuck with that, we would have gotten the kind of yields that I think all taxpayers would want on their money. And it is a shame that it eroded over time and moved into industrial policy. You know, TARP really was not set up for mortgage modifications, I will say. That is not really what it was set up to do.

But, with that, I just want to say that these kinds of things do erode trust. I know you had nothing to do with that. But, again, if we had stuck to the three major premises of the act itself, I think we would be in a very, very different situation. And I know that is all subject to interpretation, but let me move on to the future.

There is a brewing commercial real estate issue, and I think everybody knows that. And it is my sense that there is a little bit of a moral hazard being created right now. I was in New York on Monday, and I know numbers of people there think that the Federal Government is going to get involved in commercial real estate. And for that reason, they are pausing. And we talked about the regional banks and others. The fact is that banks today can issue stock that they might not be able to issue in 6 months if they do not. And so there is a greed factor that is taking place right now. They do not want to dilute their shareholders by raising capital that they are going to need, because there will be losses on commercial real estate. And the reason they are not doing that is they are thinking that there may be some additional bailout, if you will, from the Federal Government as it relates to commercial real estate.

I just wonder if you might address that, and would we not be better off to say we are not doing anything as it relates to commercial real estate? TARP is ending at this year-end. And would the financial system then not do the things that it needs to do to deal with this issue and do it themselves?

Mr. ALLISON. Thank you for your question, Senator, and this certainly is an issue that we are monitoring very closely. We are seeing deterioration in commercial real estate prices across the country, and that is one reason why we reopened the Capital Purchase Program, especially for smaller banks, which are directly exposed to commercial real estate.

It is also important to reenergize the securitization markets, which play and have played a very important role in providing funding for commercial real estate over time. And that is why we are launching the Public–Private Investment Partnership. That is why the TALF is still active and is——

Senator CORKER. And I am aware of all those things, and I know they are just at the fringes. But back to the core issue, would we not be better off from the standpoint of creating additional moral hazard here or causing the system to be dependent, just to go ahead and say that you are on your own? We have these other things. They are going to nibble at the edges. They may prime some securitization, which would be good. But while they wait—and I know while they think that you guys may be coming up with something, they are basically missing the opportunity that they have right now, with bank stocks being up and their ability to issue stock, aren't they missing an opportunity to solve their own problem?

Mr. ALLISON. Well, Senator, we have seen banks restoring capital, both through capital raising as well as improving profits and better risk taking. And these are issues that the Secretary will have to be deliberating as he considers whether to extend TARP.

But let me point out again that the securitization markets have not yet returned to normal. The housing markets, for instance, depend heavily on Federal activity today. And so I think he will be considering both the improvement in the economy, which is substantial, as well as the improvements in the market, which are substantial, but also looking at the areas that still remain troubled today in the financial markets.

Senator CORKER. I respect your service. That is not much of an answer. I do hope that very soon—because I am afraid we are going to miss a window. I am afraid the private sector is going to miss a window, as they think that there are discussions taking place. They are not issuing stock because of dilution issues, and I am afraid they are going to be up here in greater numbers because there is this uncertainty. So I do hope at some point very soon you all either say you are going to do something, which I hope is not the case, or you are not going to do something. But I think, again, this mystery around it is problematic.

Let me move on to resolution authority. Sheila Bair and others have been—and certainly Senator Warner and I have worked on this issue together, the whole issue of resolution. You came from the private sector. One of the huge problems that we had and one of the reasons TARP was created, there was no resolution mechanism to deal with highly complex bank holding companies. And because there was no mechanism, we were stuck with putting taxpayer monies in these entities to keep them alive, because there was not any way for them to actually be out of business.

Do we not need into the future to have something that is clear that, where management, shareholders, even debt holders, know that in these bank holding companies, the highly complex, large entities that operate around the world, that if they fail, they actually fail *versus* what the Administration has put forth in reg reform that says that, in essence, Treasury is going to hold unto itself into the future prominently the ability to do what has been done with TARP?

Mr. ALLISON. Well, first of all, we think that the Administration's regulatory reform actions are very much needed in order to assure that the larger institutions are adequately capitalized——

Senator CORKER. Well, I am just talking about resolution. I am not talking about the entire 13-title bill. Let us talk about resolution.

Mr. ALLISON. Well, there have to be mechanisms for resolving the situations of very large institutions that get themselves in trouble. First of all, we have to try our best to prevent that from happening by reforming regulation over the financial industry and assuring responsibility by boards and managements regarding taking risk and in the way that they compensate or incent their employees.

And as to resolution, we are seeing that if the—we believe that if the reforms are enacted, there will be mechanisms to resolve these institutions in ways that do not jeopardize the entire financial system and the economy.

Senator CORKER. I respect very much someone like you coming into public service. I will say that this hearing so far has been not very useful, and those are pretty unclear responses. But I understand that maybe that is just the way it is. But I look forward to the next panel.

Chairman DODD. Well, thank you, Senator, very much. Your questions are valuable, though, in this hearing. I appreciate it.

Senator CORKER. The answers would be even more valuable, I would add.

Chairman DODD. We are working on it here.

Senator Warner.

Senator WARNER. Thank you, Mr. Chairman, and thank you, Mr. Allison, for being here. There is a lot to cover.

I want to come to one point. I was at a function recently with Senator Corker, and everybody was going around the room, and they were describing what everybody did. And a lot of folks were in private equity, and it came to my turn to introduce myself, and I said, "I am a United States Senator, and I guess I am in the private equity business as well as this point." And something that I hope will only be a short description and not something that will go long into the future. I share Senator Corker's concerns about the resolution authority, and we may get a chance to come back to that.

One of the other areas that Senator Corker and I have worked together in is with the very legitimate questions that have been asked by Senator Shelby, for example, about these equity holdings we have, wouldn't it be better for all concerned, recognizing that anything the Government does, the Administration does, or does not do, is going to be constantly second-guessed with these equity

holdings, to take the idea that Senator Corker and I advanced and that I know we have discussed before of taking these equity shares and actually putting them out and letting them be managed by somebody who actually is in the equity business, in the equity management business?

We have a proposal out there that would put any American interests that we have more than 10 percent of any major company and have these managed by an independent group of trustees that would be appointed by the President and with the goal of trying to dispose of these assets in a way that maximizes value to the taxpayers by the end of 2010.

Why not take the management of these holdings and get them out of your shop and get them into some place where they can actually be managed professionally with a goal of shareholder maximization in terms of the American taxpayer?

Mr. ALLISON. Well, under the EESA law, Senator, we can set up trusts or limited liability companies which could own the shares. But under the law, the ultimate supervision over those companies remains with the Secretary of the Treasury. So under the law, he retains oversight responsibility for those holdings.

Senator WARNER. Well, some of us believe that the approach that is currently being taken is not the right one and are looking at ways that we might be able to change the law to insist that that independent management takes place. I think it would do a great deal for the Administration and I think it would do a great deal for the confidence of the American taxpayer if these equity interests were being managed to maximize our value.

Mr. ALLISON. Senator, we are certainly working to maximize the value for taxpayers. I think the issue about the trusts or having a limited liability company, manage those independently, is what would be the goals, to whom would they be accountable and so forth. I think all of us want to maximize value for the taxpayer. The question is how to go about it——

Senator WARNER. I think we would be very anxious to work——

Mr. ALLISON. ——and what would be the most cost——

Senator WARNER. I think we would be very anxious to work with you to accomplish——

Mr. ALLISON. We would be happy to work with you on that, Senator.

Senator WARNER. Let me come—and I know my time is—I have only got a couple more minutes and a lot of areas. The PPIP program, again, back to Senator Shelby's initial comments, the original intent of the TARP was to try to get the so-called "toxic" assets off the balance sheets. And I think we have all been glad to see a bit of recovery in the financial sector. But as recently as earlier appearances you have made and other officials from Treasury have made, it was held out a lot of hope that the PPIP program was going to be the area where we could leverage private capital to get these assets out of the banks.

I am concerned that we have not seen any action in that program. I know you have said there is going to be a first closing coming up. Do you have any sense of how successful this program will be over the coming months? Will the banks be willing to dispose of some of these assets, or are they going to continue to hold them

and just hope for better times? And if that is not going to be successful, should we shut that program down?

Mr. ALLISON. Well, it is interesting that since the program was announced last spring, the spreads on those securities tightened dramatically. Just the announcement, the fact that the Government could be active in that market, did a great deal to improve both liquidity and pricing in the market, and we are very gratified about that.

Nonetheless, we still see a need to further expand the securitization markets, and that is why we are launching the PPIP now. And we are going to monitor and see how well that performs and what impact that has on the markets as well. But there has been encouraging progress. So I would say that the PPIP program already, even before the first closing, has been extremely helpful in those markets.

Senator WARNER. But you are not going to be willing—you are not willing to give us kind of a sizing of what you expect the total amount of assets purchased in the PPIP program will amount to, say over the next 6 months?

Mr. ALLISON. Well, we will know soon enough of how the first program works. We are committing——

Senator WARNER. The first closing will be how large?

Mr. ALLISON. The first closing will be announced at the end of this month. We have set aside $30 billion of funding, both in equity investment as well as for the debt program. And so the size of the program could be as large as $40 billion. But we will see with the final closings how large it actually is. But it seems to be progressing well.

Senator WARNER. Mr. Chairman, I hope when we get the regular updates on the loan modification program we can also get the regular updates on this program, because, again, the original intent was to try to get some of the so-called "toxic" assets off of balance sheets, and my fear is, again, that banks are not being willing to bite the bullet, and we are happy to see some of the financial recovery starting to take place. But I still think there remains a lot of assets on these balance sheets that are going to have to be dealt with, and the PPIP program is one initiative. If that does not work, we ought to see what else works.

One last area I would like to get your comment on. One of the casualties, I think, of this economic crisis has been small business lending, and I recognize that a lot of the small business lending was taking place actually in the nonbank financial sector, and we have seen the demise of entities like CIT and others.

I am very concerned that, you know, as we see large-cap companies return, as we see some of the spreads shrink, one area that still is in desperate need of assistance is the small business financing, and particularly companies that have had perhaps a good track record, have been solid customers, are now in this valley, and will come out of this valley. But how do we get them from here to when we have recovery?

I am sure I speak for a number of my colleagues. We hear from folks in our respective States all the time about the lack of small business financing, and this is a challenge. We do not want to micromanage the banks, I understand, but have you given any ad-

ditional thought on what we can do to jump-start small business financing?

Mr. ALLISON. Yes. First of all, we have to make sure that the small banks are adequately capitalized because they provide an out-sized portion of small business financing. We have seen that overall lending, while it has declined, has not declined as much as it has in prior recessions because of the financial stability programs that have been instituted, as well as the overall economic recovery programs.

We are actively looking at other measures that we can take to assist small business. We share your concern that that very important segment of our economy be healthy. And so we have been talking with representatives of small business and working on various alternatives to provide additional assistance.

Senator WARNER. I know my time has expired, but does that mean you will come back with some specific suggestions by some date certain?

Mr. ALLISON. We are working and close to possibly taking a particular program and making it live.

Senator WARNER. Is that weeks away?

Mr. ALLISON. It should happen very soon. I would not want to put a pin in an actual date, Senator, but it is close.

Senator WARNER. At least some consistency on some answers. Thank you, Mr. Chairman.

Chairman DODD. Senator Vitter.

Senator VITTER. Thank you, Mr. Chairman. Thank you, Mr. Allison, very much.

I know when I was gone, Senator Tester asked if Treasury planned to extend the TARP beyond the term. It is supposed to wrap up the end of this year, and you said that you didn't know. No decision had been made. You would look at a number of factors.

Mr. ALLISON. Mm-hmm.

Senator VITTER. If we were in December right now and current economic conditions were conditions in December, what would your analysis be of extending the TARP or not?

Mr. ALLISON. Senator, again, I don't take your question lightly, but the Secretary takes it very seriously and he is considering carefully what should be done, should it be extended or not. So I don't want to prejudge his decision which he has not yet made. It is an important question.

And again, I want to say that while there has been much improvement in the financial markets and in the economy, there are still troubled areas and I think he has to weigh both the progress that has been made and the need going forward as he makes that decision.

Senator VITTER. Well, certainly the TARP was sold as an extraordinary program in light of an extraordinary threat, and it was clearly sold over and over in light of a threat of absolute collapse of the financial sector. I hope you agree with me that that threat is past, that that sort of threat of a collapse of the financial sector is minuscule to nonexistent right now. So what would be the rationale for extending TARP in light of that clear argument under which it was sold?

Mr. ALLISON. Well, first, let me say that we are seeing that some programs are already being wound down and others have definite termination dates and many of them have terms that become uneconomic as the markets recover. So a lot of this is going to wind down by itself and already has started doing so, and we see that we have been repaid substantial amounts of TARP money already as the banks recapitalize.

Nonetheless, there are still areas that are troubled. Therefore—and again, I wouldn't want to speculate on what the Secretary might do if conditions don't change. That is his decision. He is going to weigh it very carefully, looking at a lot of factors. So I don't want to in any way prejudge what he might do.

Senator VITTER. Well, I would just make the comment, there are going to be areas that are troubled in virtually any economy. It sounds like a very different mindset than the one we were presented with when TARP was originally sold as an absolutely extraordinary response to an absolutely extraordinary threat, and I share the concern of a lot of Americans that this is creeping into *status quo* and a much higher permanent level of Government involvement in the marketplace.

Mr. ALLISON. Senator, I think this Government does not have any interest in maintaining long-term shareholdings or long-term investments in banks and corporations. We would like to see this wound down as soon as possible, given the need to return to financial stability. And so that is the question that the Treasury Secretary has to weigh.

Senator VITTER. Another concern I have had for a while deals with FHA, because I have thought for a while that that is a bit of a ticking time bomb that is going to be perhaps the next big bailout. *The Washington Post* reported on Friday that an independent audit of them will reveal that they will dip below their 2 percent capital ratio. Now, their Commissioner maintains everything is just hunky-dory. They are not going to need any help. Can you assure the Committee that the Treasury will not use TARP funds to bail out, to assist, to shore up the FHA?

Mr. ALLISON. The TARP law provides that an eligible entity must be an institution, must be operating under the laws of the U.S., and so forth. So I think that is a question that you would need to ask the FHA. We have no current plans to provide any support ourselves to the FHA, but I don't want to in any way speak for the Secretary on that matter.

Senator VITTER. So you clearly won't take that off the table?

Mr. ALLISON. I—again, I think that is not part of TARP as currently contemplated.

Senator VITTER. Well, neither was GM. How does the Treasury plan to deal with—is there a concrete, aggressive plan for the repayment of TARP funds from the biggest institutions, CitiGroup, Bank of America, AIG? What are the plans as of now?

Mr. ALLISON. Their regulators will work with those banks to make that determination as to when they are eligible and able to make those repayments to us. We don't make those decisions for the banks.

Senator VITTER. There has been a lot of concern recently, for obvious reasons, in terms of the media reports, Mr. Allison, about

ACORN. Many of these big institutions that have billions in taxpayer funds contract with ACORN. Has there been any effort within the TARP program to ensure that taxpayer funds aren't used in that way?

Mr. ALLISON. We provided no funding to ACORN, Senator, and they did participate in some counseling sessions. They provided some counseling in the past. We have no ties to ACORN.

Senator VITTER. Mr. Allison, I don't think you understood my question. We give billions of dollars to these mega-institutions. Many of them contract with ACORN. Has there been any effort within the TARP program to ensure that those taxpayer dollars that are going to those institutions do not flow to ACORN?

Mr. ALLISON. We will go back and consider your suggestion. I don't know what these companies have been doing with ACORN.

Senator VITTER. OK. So as we speak now, there is no effort in the TARP program to look into that or regulate that, is that fair to say?

Mr. ALLISON. Well, again, we don't get involved in the day-to-day management of TARP companies, and I think that that is not something that would really be appropriate for the U.S. Treasury, to get involved in their day-to-day management.

Senator VITTER. OK. So a minute ago, you said you would look into it, but are you saying that it would not be appropriate for you all to have any policy with regard to that?

Mr. ALLISON. I will go back and consult with my colleagues about your question and we will get back to you.

Senator VITTER. OK. If you could get back to me——

Mr. ALLISON. I certainly will.

Senator VITTER. ——and the Committee in writing——

Mr. ALLISON. I certainly will.

Senator VITTER. ——that is obviously a broad concern.

Mr. ALLISON. Yes, sir.

Senator VITTER. OK. Thank you.

Chairman DODD. Thank you, Senator, very much.

Senator Merkley.

Senator MERKLEY. Thank you, Mr. Chair.

I was a strong critic of the TARP program, and in January, I was asked what I thought should be done to improve it and I said, we need to spend an enormous amount of effort assisting homeowners in this Nation. And the Administration sent over a letter saying that the Administration would commit substantial resources, $50 to $100 billion, to a sweeping effort to address the foreclosure crisis and then enumerated that funds would be spent on preventable foreclosures, they would reform our bankruptcy laws, and they would revive initiatives like Hope for Homeowners.

Right now, the GAO reports that very little money has been spent to assist homeowners. Are you familiar with how much TARP funds have been spent?

Mr. ALLISON. Well, we have planned to devote $50 billion to the Making Home Affordable Program——

Senator MERKLEY. I am not asking about the future. How much has been spent——

Mr. ALLISON. Yes. And so far, we have committed over $22 billion——

Senator MERKLEY. Not committed, but spent to date.

Mr. ALLISON. ——and to date, we have spent very little of those funds because we are just beginning the Mortgage Modification Program. And the amount we are spending will ramp up rapidly over time, but right now, it is envisioned that for the servicers now in the program and the eligible homeowners——

Senator MERKLEY. Is very little—do you have an estimate on that?

Mr. ALLISON. Actually the amount today? We, again, as I said, because the program is new, it is very small.

Senator MERKLEY. OK. It is very small. It is zero. It is zero dollars according to the GAO report. They note in a footnote that $275,000 have been spent as incentives to participating services, but apparently not a dollar has gone out the door yet in terms of interest reduction, equity reduction, or any other form that actually assists the homeowner.

Mr. ALLISON. Actually, Senator, as the trial modifications, and there are almost 400,000 of those already on the books, as those take place, the payments by the participants go down. And what is unique about this program is we are actually reducing——

Senator MERKLEY. Oh, I am very aware of how the—you are welcome to answer someone else's question about the future.

Mr. ALLISON. Right.

Senator MERKLEY. I was trying to establish, and I think you are agreeing with me, that to date, now that we are 8 months into the future from the January 15 letter assuring a sweeping program, we have yet to spend a dime that actually helped a homeowner yet. You are saying—I agree with you. A big program is in place, and I want to turn to that. In your shop, there is a post called the Chief Ownership Preservation Officer.

Mr. ALLISON. Right.

Senator MERKLEY. Is that person in place yet?

Mr. ALLISON. That person will be in place very soon.

Senator MERKLEY. Why has it taken, with home ownership, so many millions of our Nation's families struggling, why has it taken so long to fill such a critical——

Mr. ALLISON. Well, we have had a head of the Home Ownership Preservation Office since its inception, and they have been doing a very good job. We are now bringing in someone who will be the permanent person in that role. But that has not slowed us down from making great progress.

And if I can get back to your question, I just want to emphasize your earlier question, that people are receiving relief immediately as they enter the trial modification program. We have currently, I think the latest statistic is we have about 1,800 people who are now in the actual modified loans, in the permanent modified loans, but they lag three to 5 months the actual trial modifications. And so there is a period where we are not yet paying the servicers. We only pay them for performance. But those payments are now commencing and will rise rapidly.

Senator MERKLEY. And if 85 percent of the people who are in the trial modifications now succeed in making it through, based on the numbers of about $20,000 per family, we would be talking about expenditure of about $6 billion. If indeed, we reach a significantly

larger number of an additional 120,000 families coming into the trial modification per month, 80 percent of those succeeding, doing it over the next two-and-a-half years, we will be spending something closer to $50 billion. That does leave another $25 billion still on the table in this program. Are you looking at aggressive ways that we could do more more quickly to assist homeowners?

Mr. ALLISON. The other $25 billion is under the HERA programs. It has to be spent by the GSEs, by the Government Sponsored Entities. Our program is $50 billion and we believe that that will be adequate to cover the mortgage modification incentives for all of the eligible people in the servicers who are now in the program.

Senator MERKLEY. Actually, there was another $25 billion pledged, and that is in your own testimony, for the making—no, it is not. I am sorry. It is in the Inspector General's testimony for the Making Home Affordable program.

But I come back to the core point that we are facing—reported yesterday an anticipated seven million additional homes going onto the market through foreclosures——

Mr. ALLISON. Right.

Senator MERKLEY. ——and that is folks who are either the foreclosure has already happened, it is about to go on, or it is about to happen. That is not including the massive number of foreclosures that will happen under the triple-option wave anticipated next year. So we have a significant factor in assisting America's families, a significant factor in reviving and restoring the economy, and it seems like—I mean, to date, the score is something like this.

We have spent, out the door, $288 billion to the banks, $76 billion to the auto industry, and less than $1 million, $270,000, according to GAO, for our homeowners. It is disproportional. There are so many different things that could be done to accelerate this program that have come out of the focus groups around the country—electronic submission, single point of contact, increased transparency, closer work with HUD counselors, not doing punitive credit ratings when people are in the modification programs.

We are seeing little action on these common sense approaches to really pay attention to the plight of the American family, so I am pushing to say we could do more, and as a leader in the TARP program that has made this $50 billion commitment, I am asking you to do more.

Mr. ALLISON. Thank you very much, Senator. We are looking at all those and we are working with the servicers to try to implement as fast as we can streamlined procedures for people to get into this program.

I want to point out that this crisis has gone on for 2 years. When the Obama administration got into place, they put in effect this program, which is by far the largest Mortgage Modification Program ever attempted. It is already the most successful, even though it is not nearly close to the numbers that we want to see. It is ramping up very rapidly.

We are seeing that the servicers who needed time to reprogram their systems and train their people are starting to gain momentum. We are staying on them every day. We are meeting with them periodically as a group and in contact with them almost every day and working very close with Fannie Mae, the agent for this pro-

gram, and Freddie Mac, who is auditing. We are going to be as transparent as we can possibly be about the results of the program, about the quality of service provided by the servicers, and the overall cost and effectiveness of this program.

The results in terms of the actual payments out the door—remember, we are paying only for performance. We are paying for modifications completed. And so as these are completed and made permanent, we start these payments. And we have already, though, provided financial relief for about 400,000 people, and that number is going to be growing very rapidly.

So we are taking this extremely seriously. If we can make improvements, we are wide open to any advice from any quarter about how to make this program better.

Senator MERKLEY. Well, I am glad you are wide open, because many members here in the Senate have been hearing from their constituents—I think probably all of us have been—having great difficulty accessing the modification programs, and in forums across the Nation, the same feedback has been occurring. We have been forwarding the same set of pieces of advice on how it could be much simpler so you are not routed to ten different people and ten different phone calls. That is the single point of contact. So you can submit your paperwork in an electronic form so that the papers are not continuously lost, which is a huge complaint.

Mr. ALLISON. Right.

Senator MERKLEY. So that HUD counselors have a sense of the models so they can give better advice to people as to whether they can approach the system. And so that citizens not receive punitive credit ratings while they are applying to the program. Those have been raised time and time again, and each time I raise them, I hear, interesting ideas. We are looking at them. We are looking for more serious consideration of ways we can make this program work better.

Mr. ALLISON. Let me mention on the credit ratings of people being affected by modifications, there already is, and it was announced, a change that is going to be made by the agencies who provide the FICO scores so that they are not going to affect people's ratings materially for at least a year while they gauge the success of these modifications. That is a big step forward.

Senator MERKLEY. I am pleased to hear that.

Mr. ALLISON. And on the others, we also share your frustration. We are having to, in effect, revamp the mortgage servicing industry in order to provide the kinds of services that people need right now. We know people don't want to wait months and months to get their modification. It is frustrating to us, and that is why we are working very intently with these servicers to try to get them up to speed as rapidly as possible. The service quality isn't what we would like, either, and that is why I mentioned earlier that we intend to be publishing service quality metrics on every servicer in this program, which ought to shine the light of day on this and provide additional impetus for them to improve as fast as possible.

Senator MERKLEY. Thank you for your comments. I apologize to my colleagues. I wasn't paying attention and ran significantly over time.

Chairman DODD. No, no, thank you, Senator, and it gets at the points that I raised in my first questions.

Again, this is a very, very important area to all of us. We are looking for a system that works here, making some decisions. As I said earlier, we would like to keep people in their homes where we can, but there are occasions when that may not be the case, in which case you have to move on. And just sort of dangling things out there forever, I think are creating unintended consequences in the marketplace, as well. So we really do need to have an expedited system that cuts through a lot of the bureaucracy and time out there so we can draw those conclusions.

Mr. ALLISON. Right. We agree.

Chairman DODD. I appreciate that. Let me jump—Senator Gregg, Senator Johanns will be coming back, but you are next.

Senator GREGG. Oh, I thought I was——

Chairman DODD. We follow different rules in this Committee here. You showed up early, so you are recognized for your early arrival here.

Senator GREGG. Well, I appreciate that, Mr. Chairman, and I appreciate the opportunity to be on this Committee with you and Senator Shelby. You have done great work in the area of financial services. It was an interesting time last fall when we negotiated——

Chairman DODD. Was it ever.

Senator GREGG. And I guess some of my questions go to—first off, I think you ought to take credit for it worked. I recognize that at the margins, some of it is still an issue, but the purpose at the time was to step back from a catastrophe of unpredictable proportions, but we knew it was going to be horrific, and the action was taken and it was done in a bipartisan way. The negotiations were both parties sitting down and making sure that we put in place the best ideas we had at the time in a timeframe where we only had, literally, only days to take action. As a result of the action taken, and it may not have been the action specifically anticipated, the system has stabilized.

And actually, the return to the taxpayers, at least on the capital investment, is going to be pretty good, I expect, before we are finished. I don't believe CBO is going to be right. I think we are going to find we make a little money here for the taxpayers overall.

In fact, if you look at the stock prices today of some of the companies that we have invested in, we have already made a paper gain that is very significant. And in addition, we are getting preferred dividends here of 8, 10 percent, which is a pretty good way to arbitrage money. We are borrowing at zero. We are getting 8 to 10 percent back. That is not bad for the taxpayer.

But I do think there is, at least from my viewpoint, a legitimate question as to whether it has done its purpose and should be wrapped up. That is, I think, a legitimate concern.

This discussion which you just had with Senator Merkley, that appears to me to be a permanent Federal program for mortgage relief, almost an adjunct to Fannie Mae and Freddie Mac, not the original purpose of TARP, which was obviously to do something in the area of mortgages, but not to create a permanent program.

So I guess my question to you is, define the systemic risk that you see today. Chairman Bernanke has told us that the recession is technically over. Obviously, a lot of people are still in pain and a lot of people are unemployed and clearly a lot of people are going through trauma. But he has told us that the recession is technically over, and therefore, I think we can assume that things are going to get better. So define for me the systemic risk that exists going forward that is going to require the type of capital that you presently have available to you under TARP and where you are going to put that capital to address that risk.

Mr. ALLISON. Thank you for the question, Senator.

Senator GREGG. In specifics, if you could. I mean, your testimony has been a little amorphous so far.

Mr. ALLISON. First of all, let me just mention on the mortgage program, it is not a permanent program. The ability to add to the commitment on that program will expire at the end of the EESA, either whether that is at the end of this year or, at the latest, at the end of October of next year. And we will provide the required subsidies for some years, but no more than 5 years after the mortgage has been started. So it is not a permanent program.

As to what are the systemic issues that might cause this program to be extended, and again, it can't be extended beyond October of next year, again, we have seen, as you pointed out—thank you for your comments—we have seen great progress in restoring parts of the financial system that in many, they are back to normal. There are others that are not. The securitization market is one that still has a great deal of support from the Government behind it. That has been a very important provider of credit in this country, as much as 40 or 50 percent. We need to make sure that we have a return to stability in the mortgage market——

Senator GREGG. Well, the securitization market is a self-righting mechanism, that if you were moving out of a recession, it will self-right itself. And so I don't take that as systemic risk. It is clearly a risk and there are going to be some bank failures as a result of the situation, but it is not a systemic risk at this point that justifies $700 billion.

So give me a specific proposal, a specific reason why we still need $700 billion on the table.

Mr. ALLISON. Well, again, I don't want to preempt the Secretary of the Treasury. He is going to be considering all those questions that you are asking and a number of others, and also looking at various measures of financial stability as he makes his decision. So again, I understand the great interest in whether this is going to be extended, but I don't feel I can speak for the Secretary.

Senator GREGG. I associate myself with Senator Corker's thoughts on that answer.

Let me ask another question. Why in the bailout of the automobile companies, which clearly, in my humble opinion, was not within the context of TARP but was pursued by both Administrations, so therefore was legitimized—under the Chrysler bailout, the taxpayers put up about $4 billion and we got 8 percent of the stock. The unions put up about $6 billion by waiving liability and got 55 percent of the stock.

When we wrote the TARP, which we spent a lot of late nights doing, as I recall, the language said the purpose of the TARP money, when invested, shall be to enhance the value of the taxpayers' position. I didn't note any language that said the purpose of the TARP money was to enhance the position of the unions' investment, and yet the taxpayers seem to have gotten the short end of the stick in relationship to the unions in the Chrysler bailout. Can you specifically answer why that happened?

Mr. ALLISON. Well, the bailout was done on what you might call close to commercial terms, where various parties who were necessary to the ongoing success of the entity, in some cases, have to play a role, and that——

Senator GREGG. Well, the taxpayers were essential to the success of the party——

Mr. ALLISON. Yes.

Senator GREGG. ——and yet the taxpayers for $4 billion got only 8 percent. The unions, for $6 billion, got 55 percent. What was the value that was brought to the table that the taxpayers got so little for their money *versus* what the unions got for their money?

Mr. ALLISON. I think that at the time, the breakdown and the financing was determined on what you would call commercial terms. This is not a very unusual outcome, and each of these entities, whether it is the banks or the Government or the employees, have a stake in the survival of that company. And it was felt by great professionals who worked on that that this was the best outcome to secure the future of the companies and that was in the interest of the taxpayers.

Senator GREGG. Well, I don't see how it is in the interest of the taxpayer to only get 8 percent of the company for $4 billion when another entity gets 55 percent for $6 billion. How do you define that as being in the interest of the taxpayer?

Mr. ALLISON. Well, I would have to consult with my colleagues who actually worked on that program, so——

Senator GREGG. But they were TARP dollars——

Mr. ALLISON. I will be happy to get back to you with a fuller explanation.

Senator GREGG. Thank you.

Chairman DODD. Thank you very much, Senator.

Let me just, before I turn to Senator Johnson, just I mentioned earlier in my question to you that there are predictions of anywhere from 400 to 1,000 bank failures. Now, I am not—I don't know whether you want to acknowledge that number as something that is the number that the Department of the Treasury is accepting as a realistic number of not. But if you were talking the magnitude of that, and the question being raised here about a continuation of the TARP program beyond its projected expiration date, does that number pose to you the issue of whether or not we would be looking at a return, not to the point where we were a year ago necessarily in September—and I understand Senator Corker's point, as well. There is a way of addressing this issue and whether or not you are going to have the banks issue more stock or not.

But posing the issue of having 400 to 1,000 banks, many of them regional, facing collapse, does that pose the kind of stability ques-

tion in terms of our recovery that would warrant, in your mind, at least, a consideration of a continuation of the program.

Mr. ALLISON. Again, this is one of many factors that the Secretary will have to consider as he makes his determination. We are seriously concerned about bank failures and we want to make sure that the banks have adequate capital, that regulators are consulting with these banks frequently, and that is obviously one factor that would be taken into account by the Secretary.

Chairman DODD. Yes. And, again, last, I just want to make the point—and Senator Shelby and I were talking privately a minute ago. When I took over the gavel of this Committee in January of 2007, we held an extended set of hearings, in February, in March, in April, with stakeholders in this room, those on the Committee, all about the mortgage crisis. And we had witnesses that were predicting a million foreclosures, and they were ridiculed for doing so. It was at the heart of the problem.

I respect the fact the Chairman of the Federal Reserve Board has acknowledged that they did not act quickly enough. Had they acted in 2007 on this issue more aggressively—I cannot predict we would have avoided what we saw last September that Judd Gregg has just, I think, accurately described, but I think we would have mitigated it substantially.

So at the heart of this crisis was the issue of the mortgage crisis, the mortgage failures in the country, and I just think it is important to note that in our discussion here. And while I do not disagree with you, this cannot be a permanent program. And Judd is absolutely correct. This cannot be seen as somehow a permanent program we have in place. That is why I say we have got to make decisions about this. If someone cannot get out of this, then the property ought to be put up and auctioned off or foreclosed or whatever you do. So I am not enthusiastic about moratoriums. I think it just delays the inevitable in some cases.

But to the extent someone can be kept in their home, we ought to try and resolve that if we can. And if not, move on.

Senator GREGG. Mr. Chairman, if I could just point out, during the negotiations of the TARP, you were absolutely insistent that mortgages and the foreclosure issue be part of the exercise, so it is clearly within the TARP, almost purely as a result of your single-minded focus on this as being where the essence is of concern. So it is legitimate. I just do not want to see a program that goes on forever.

Chairman DODD. And I agree with you totally on that. You are absolutely correct on that. But I appreciate you remembering that night of September 18th when we sat in that room together with this guy here, sitting next to each other that night. So I apologize to Tim Johnson. I jumped here on those. But those two points—I find the notion if we lose 400,000 banks, that to me is pretty intimidating, to put it mildly. I do not know the answer to it. Maybe Bob Corker is right on this thing. And I do get worried about the "too-big-to-fail" notion. This is maybe just too many to fail or something in that category. So I think his point is a good one. And we do need to get some answers on this. And I expect—listen, I have great respect for you, Mr. Allison. You are a dedicated person. You have had a distinguished career on the private side. You came over

to the public side to bring that wealth of experience. Let me speak for all of us here. We admire you immensely, and we thank you for what you are doing.

Mr. ALLISON. Thank you.

Chairman DODD. But we need to get some answers on this stuff. We are not going to have hearings on this every day. And so while you may not be able to—and I appreciate the fact you are not the Secretary of the Treasury.

Mr. ALLISON. Exactly.

Chairman DODD. But we need to get some answers back on these questions that have been raised so that we can—we have got some big decisions to make here in the coming weeks, and having your best judgment and the judgment of the Secretary on these matters is going to be critical to our consideration as we go forward, particularly in the area of reform or modernization, or whatever we want to call it, of the regulatory structure.

So, again, I appreciate the fact that you are not in the position to answer all of these questions, and there will be others who will be involved in them. But to the extent you can get back to us on these things, we would appreciate it very much.

Mr. ALLISON. Thank you.

Chairman DODD. Senator Johnson.

Senator JOHNSON. Thank you, Mr. Allison, for your service.

There is legislation pending which would compel repaid TARP monies to be used to repay the deficit. Is that a good idea or not?

Mr. ALLISON. Well, as we do receive monies, it is put into the general account of the Treasury, which reduces the need for Federal fundraising. So it is already helping in that regard as we receive money back.

Senator JOHNSON. SIGTARP has recommended that the Treasury begin reporting on reviews of its TARP portfolio so that taxpayers can get regular updates on the financial performance of the TARP investments. Has Treasury started to do this?

Mr. ALLISON. Senator, thank you for the question. We have very high regard for the work that the SIGTARP has been doing. I meet with the SIGTARP every week. We discuss all the issues around TARP and also making information available about TARP programs.

We have provided extensive information at the end of every month about, for instance, the lending activity of banks. We provide a report on all of our TARP activities. We have made that much simpler to understand, and we have a new report that I think is much more accessible by the American public.

The SIGTARP has recommended that we include more information about the use of funds, and we are going to be in our October quarterly report providing information about all the categories of use of funds that the SIGTARP has recommended.

We have adopted about three-quarters, either totally or almost totally, of SIGTARP's recommendations, and he has been very helpful to us in making these programs even better and better controlled.

So what we are doing, though, is to provide actual data on bank lending and, beginning in October, a number of other bank activi-

ties that is provided by the regulators. It is the most accurate information that we have about how capital is being used by banks.

What is most important, I think, to the American public is how are banks using the capital in order to promote lending and financial recovery. And that information is on our Web site today, and we are working with the SIGTARP to see how we can enhance the information going forward.

Senator JOHNSON. The SIGTARP has also recommended that the Treasury require more disclosure of how individual institutions are using TARP funds from the Capital Purchase Program. Why has Treasury not responded more fully to these recommendations?

Mr. ALLISON. Again, we are making available information about how banks are using their capital. The purpose of the Capital Purchase Program was to strengthen the capital base of the banks so that they could make more loans than they would otherwise and also conduct other activities connected with their role in the financial system.

It is very difficult to identify exactly how the capital, our capital is used, as distinguished from all the capital of a bank. And so we have had many discussions with SIGTARP about how we can best report this.

We are going to be expanding, as I said, our reporting in order to show how all the banks' capital is being utilized with actual data, and I think it will be an extremely useful source of information for the American public and for the Congress as to how banks are using capital.

Senator JOHNSON. Now that the large banks are largely stabilized, what do you plan to do for the Nation's community banks? Is there any way to modify the definition of "viability" to help the smaller banks that might just need a small infusion of capital?

Mr. ALLISON. As I mentioned, Senator, we did reopen the Capital Purchase Program for small banks, banks with less than $500 million, last May. We are receiving applications every week and providing capital for smaller banks every week.

Senator JOHNSON. Do you think the TARP money has been distributed fairly amongst banks in need, especially smaller banks?

Mr. ALLISON. Well, the great majority of the banks that have been assisted by the Capital Purchase Program are midsized and smaller banks. And so they are playing a very important role in the economy, which we well recognize, and that is why we have been giving special attention to the smaller banks by reopening the Capital Purchase Program several months ago.

Senator JOHNSON [presiding]. Senator Johanns.

Senator JOHANNS. Thank you, Mr. Chairman.

Mr. Secretary, good to see you again.

Mr. ALLISON. Senator.

Senator JOHANNS. As you know, as I have probably mentioned this to you before, in another life I used to sit where you sit while the Senators went around and interrogated me on what was happening in my mission area of the Federal Government. When I was a Cabinet member, I would work with an Inspector General on an ongoing basis. It is just part of the oversight of doing the job. And so in my brief time today to offer some questions, I would like to

focus on the Inspector General's most recent report relative to Treasury and the TARP program.

I have to tell you, and I will be very blunt with you, it is very damning. I am referring to the introduction, and there are four major findings that are identified in that introduction.

The first one is that it is extremely unlikely that the taxpayers are going to get a full return on their TARP investment.

Second, Treasury's originally stated goal of increasing lending has not yet occurred.

Number three, the goal of preserving homeownership and promoting jobs and economic growth have not been met.

And then the very program for which I think TARP was created, which was to get toxic assets off balance sheets—I think that is really what this program was focused on initially—about that, this is said: "In the meantime, the risk of foreclosure continues to affect too many Americans. Unemployment continues to rise at levels Treasury finds unacceptable. And the so-called 'toxic' assets that helped cause this crisis for the most part remain right where they were last fall—on the banks' balance sheets."

Now, I understand your job. I understand your need to present a very rosy picture. I heard your testimony that Treasury action has restarted credit markets, *et cetera.* But then I go to a report from an enterprise that I grew to respect as a Secretary, the Inspector General. And although their reports to me would often make me grind my teeth, I did come to respect their impartial analysis, and I paid attention to them.

Let us just level today, Mr. Secretary. That is a very damning report toward TARP and the Treasury's operation of TARP, isn't it?

Mr. ALLISON. Well, Senator, let me take each one of those points, if I may. It is unlikely—the first point is, I believe you said, that we are going to receive a return on TARP funds. We have already received $70 billion of funds back from banks, and the banks that have fully repaid us, including repurchasing warrants, we have close to an 18-percent annualized return for the taxpayers.

Senator JOHANNS. Mr. Secretary, let us just focus here, because you can cite those numbers. Quite honestly, to me they are not very impressive. We have billions more on the line.

Now, if you were my investment adviser—and you worked in this area for many, many years in the private sector—I am just going to guess you never would have called me the Friday before the President bought General Motors and said, "You know, Mike, I have been talking about it. I want to put you into General Motors." Right? I mean, you would not have given me that advice.

Mr. ALLISON. Senator, we have to look at, first of all, the expected returns on the TARP investments on behalf of taxpayers. It is too early to say how this is going to turn out. Some areas will probably see better performance than others. But we also have to look at the overall impact of the financial stability program on the American economy, on the banking system, and on the American public in general. And I would shudder to think what the situation would be if the Congress and the Administrations had not taken strong action to deal with this crisis by, for example, creating the TARP program.

So I think we have to look at returns beyond simply the returns of this program. I can assure you we are working extremely hard and aggressively on behalf of the American taxpayer——

Senator JOHANNS. I am not questioning how hard you are working——

Mr. ALLISON. ——and we will also have a report on November 16th that will allow you to see, and the public, exactly what are the valuations of these assets according to the methods that are prescribed by the GAO, and there will be audited financials. And from that I think you can make informed judgments about the progress so far.

We still have a long way to go, and much of the outcome is going to depend on the success of stability programs going forward. We have already seen asset prices have risen dramatically in the financial markets. It has been pointed out that share in many banks are up. This is helping in terms of the returns. But we are not yet declaring victory either in fully restoring stability in the financial system or in achieving the returns on the TARP program. It still has a way to go.

Senator JOHANNS. You are not seriously arguing that we are going to get our money back on the General Motors investment, are you? I mean, you did not come here today to convince this Committee that is going to happen, did you?

Mr. ALLISON. I was talking about the overall program. Again, some areas will perform better than others. I do not know yet what the outcome will be. The head of the auto program has testified, and his forecast or his analysis is on the record already.

If I may, I would like to refer to the other elements of the SIGTARP report that you mentioned. Have we been successful in increasing lending? I think we have to look at, first of all, the absolute facts. Lending is down. That is normal during a recession. The question is: Has TARP prevented an even worse reduction in lending? And I am very confident it has, because the banks, by restoring capital in the banking system, they are able to sustain their lending activities. And there is no doubt in my mind that there is more lending going on than would have been the case without the TARP program.

On the toxic assets——

Senator JOHANNS. Before you go on to the next one, do you have anything, any study, any analysis that you could provide to me that would prove that last statement?

Mr. ALLISON. Well, the Federal Reserve just released information saying that in their view—actually, the reduction in lending has been less in this recession than it was in the 1991 recession, which would indicate—it is an association, but it would indicate that the TARP program and other elements of the economic recovery program have helped to sustain lending at a greater level than it would have been without those programs. I do not think there is much doubt about that.

Senator JOHANNS. Yes, there is. That is a leap of faith. You know, I hear these tremendous promises, but then there is just nothing to support it. I mean, you know, if you could point to something that leads me to that conclusion, I would be willing to go there with you. But, you know, even the report here, the people

who are to provide you insight say increased lending has just simply not occurred, the toxic assets remain on the books.

I mean, the very things that TARP was designed to deal with, quite honestly, it appears to me this has been a failed program. The very promises made to the taxpayer of what was going to happen with this money in my judgment have not been kept. And I just think that is very concerning. Somebody watching this hearing must be so frustrated, we can get billions out, we can buy General Motors overnight, but we cannot help a homeowner. And that just does not make any sense, you see. It is just—I think it is a failing. And I really think Treasury should come to grips with what the Inspector General is saying here and try to deal with those issues or close down the program.

Mr. ALLISON. Well, Senator, I think we are being very candid and fact-based on what is going on in our programs. Again, with the homeownership program, this is a program that really got underway in May in terms of actual activity, and it is now September. We already have 500,000 people—no, I am sorry. We have about 400,000 people in trial mods, and we will have 500,000 by November 1st, if not sooner. The pace of the increase is on line with our objectives today.

We still have a long way to go. I am not declaring victory at all. We have to do many more modifications than have been done so far. But this is a program that was announced by the Administration in February, shortly after they took office. There has been great urgency to get it going. We have to work through a number of banks around the country. We now have close to 50 banks, and they account for 85 percent of eligible mortgages in this country. And we are working very actively with them to ramp up and to serve as many people as we possibly can.

So I think that the progress has actually been good, but in an absolute sense, have we arrived where we want to be? No. We all have to do a great deal of work to get there. We are being as open as we possibly can. We are not declaring victory by any means.

Senator JOHANNS. Let us wrap up. I am way over my time, and I appreciate the Chairman's indulgence. I would just wrap up and tell you that when I got an Inspector General's report that was this critical, we tried to act on it, and I hope you will because, quite honestly, it is very damning.

Thank you, Mr. Chairman.

Senator JOHNSON. Senator Brown.

Senator BROWN. Thank you very much, Mr. Chairman. Welcome, Mr. Secretary. Thank you for joining us.

I want to shift gears and talk about credit. I hear consistently, as we all do, from particularly small and medium-sized businesses about the difficulty of getting credit, that the Feds put hundreds of billions in TARP money, the Administration released $5 billion from TARP for Tier 1 suppliers, as you know, for the auto industry. And I think it is particularly acute, the problem is particularly acute for manufacturers. I bet you I get a dozen calls or letters every single week from manufacturers in my State, especially manufacturers in the auto supply chain but beyond that.

The SBA has been actively making adjustments, increasing its loan guarantees to 90 percent, yet banks still are not lending to

companies, to manufacturing companies, and these are companies that have customers. They are companies that could make sales, that have the capacity, that have skilled employees ready to go.

Economists will say that historically what pulls us out of recession is housing and auto, perhaps they say auto and housing, in that order. And the President was in Lordstown, Ohio, a week ago, a thousand people coming back to work at Lordstown, being called back to work. There are signs that that industry, partly because of Cash for Clunkers, partly because of perhaps Chairman Bernanke is correct about the country beginning to come out of recession, at least the recession ending. Yet if the suppliers and the component manufacturers, particularly Tier 2 and Tier 3 auto suppliers, and coupled with a lot of those auto companies are beginning to look at transition into other manufacturing—glass makers in Toledo who make glass for trucks can make it for solar panels, component manufacturers that make gears for cars can make gear boxes for wind turbines. And we are seeing that transition.

My State is one—Toledo has more solar energy jobs than any city in America, and we are seeing that around my State, and a State that people are surprised when they hear that.

What gives here? What do we need to do, what do you need to do? What tools can we give—and I know Elizabeth Warren is going to talk about this on the second panel, about the lack of credit in manufacturing and other businesses. But give me your thoughts on what we can do to help the Feds put more—somehow get the banks to begin to give credit to especially manufacturing.

Mr. ALLISON. Well, Senator, again, we are encouraged by the progress that is being made. I know that the President himself was out there urging that more progress be made. We have to transition this economy to new industries in order for it to grow and to have greater stability over time.

Important in my role is to assure that we are making capital available to the banking system so that they can in turn provide credit, as you are pointing out to small business and large. And, again, we have seen, I think, encouraging signs that the lending activity has been helped by the TARP program. It is not as robust as we would like. That is normal during a recession. But it has not been as bad a downturn in lending as it might have been and certainly would have been without the TARP program.

Senator BROWN. I am sorry to interrupt. I appreciate that. And I really do believe that if we had not done a lot of things we did, contrary to what some in my State and some in the Senate and House think, it would have been significantly worse. I agree with all that. But I still have—the Subcommittee I chair of this Committee, the Economic Policy Committee that Senator Merkley sits on with me, we have had hearings on this, and we are still having manufacturers come to us. I said I get at least a dozen calls and letters and visits a week from people that cannot get the financing that will produce jobs. These are people that are not particularly high risk.

What gives? What do we need to do? Other than saying we are beginning to make progress, what unfreezes this so they get credit?

Mr. ALLISON. Well, again, a lot of credit has come for the securitization markets as well as the banks. It is very important

for us to increase activity in those markets, and that is why we are still following through with the PPIP program. That is why the TALF facility has been actually extended by the Fed into next year. And we have to look at this as a problem of total credit availability. And it is not only the banks, which play a vital role, but it is also the ability of banks to be able to take assets from their books and sell into the securitization markets, as was pointed out earlier.

In order to do that, we have to have an active marketplace, and that is why some of these programs are so essential to getting that activity going on. We have seen encouraging signs. The securitization markets have picked up in activity dramatically since last spring thanks to these programs. More still has to be done, but the signs are encouraging, and we are seeing glimmers of growth in the economy in certain sectors.

So, all in all, the economic recovery program and the financial stability program seem to be having a favorable impact.

Senator BROWN. OK. Thank you, Mr. Chairman.

Senator JOHNSON. Senator Hutchison.

Senator HUTCHISON. Well, thank you, Mr. Chairman, and thank you, Mr. Allison. I know you have been here a long time, and I appreciate that you are making great efforts.

I just want to say a couple of things. First, in Mr. Barofsky's report, the IG, it goes through exactly what we were told last fall for TARP, that it was primarily to take the toxic assets off the books, particularly in the area of mortgages, to try to stabilize that area. It is my belief that had we stuck to that, maybe the stabilization of the housing market and the banks would have been enough and certainly would have kept us from going through these huge spending binges that I think are scaring people more than anything else in this country.

And yet I go through my State and small business person after small business person after small business person says they cannot get loans. They cannot do the normal things that they have done throughout their small business experience. And so I am very concerned that part of the new programming has not even gotten up and going, specifically the mortgage part of the new program.

I am just going to ask the direct question. We do not feel it out in the marketplace that it is getting into the home mortgage area enough, that it is getting into the small business area enough. And yet we just continue to say we are going to extend the program. There is $330 billion that is not spent, and we hear that Secretary Geithner is going to ask for an extension of the program.

Let me just ask you this question: Isn't this huge debt and the deficit as important as all of these other factors? And why wouldn't you consider not extending TARP, having the paybacks go directly into paying down debt so that the American people can see that there is light at the end of the tunnel, that maybe this excessive spending that is causing debt, that we see beyond our children and grandchildren's generations, that maybe if we stop TARP where we are now, about halfway through, and try to work on the paybacks going into debt, wouldn't that be a signal to the American people that we are going to look at this debt, it is a great concern, it is going to be as important to the success of coming out of this recession as anything else we could do? Why not?

Mr. ALLISON. Senator, first of all, thank you for your thoughtful question. The payments back into TARP do go to reduce the funding of the debt——

Senator HUTCHISON. Let me ask you on that point, because you did say that to Senator Johnson. But is it going back—is the interest going back? Is the corpus going back? Because it is looking more like a revolving——

Mr. ALLISON. The interest and the corpus go directly into the general account of the U.S. Treasury to reduce the Treasury's funding needs.

Senator HUTCHISON. So is that no longer, the $70 billion, no longer part of the $700 billion?

Mr. ALLISON. Actually, the way the law works, Senator, is that the amount appropriated remains at $700 billion, so as the money is paid back, that frees what we call headroom in the program, if needed, to provide additional commitments.

Senator HUTCHISON. I do not think that is what I certainly envisioned, nor is it the way I heard it described when we passed this, that it would continue to revolve, basically. I think people thought there would be a finite amount, and that would be used to jump-start the economy through mortgage-backed security purchases and buying the toxic assets.

So I do not think we considered it a revolving fund, but wanted to get out of debt as soon as we could.

Mr. ALLISON. Let me say, Senator, we follow the law explicitly and the amount that we have actually committed is $444 billion. We have actually invested or spent about $360 billion out of the $700 authorization.

On the—let me mention about home ownership. One has to look at the overall programs that the Government has been carrying out. Mortgage rates are certainly lower than they would have been, which is extremely important to the American public, because of the activities of the Fed as well as the Treasury. And the Mortgage Modification Program, as I said, it is relatively young. It is ramping up very rapidly. We are going to be reaching a lot more people.

We share your concern about is this—are these efforts reaching people in their communities around the country, and we monitor that very closely, as well. That is——

Senator HUTCHISON. Do you agree that it isn't?

Mr. ALLISON. Oh, it is. It is. But a lot of people are still suffering in the American public. There is still a concern, many people, about losing their homes or losing their jobs. We are not back to a normal, healthy economy. There are improvements that are dramatic in many parts of the economy, but we still have a way to go. And those are some of the factors that the Secretary will be considering as he decides whether to extend.

But let me emphasize again, a number of these programs are already winding down and they will wind down further, and this program ends either the end of this year or no later than next year in any case. So we are looking toward the—some of these programs beginning to wind down and making sure that we are implementing the programs that are underway as well as we possibly

can to get assistance out to the public as well and as rapidly as possible.

Senator HUTCHISON. Well, let me just finish by asking, why wouldn't you show good faith with the American people and not ask for a full extension of $700 billion at the end of this year, and perhaps just lower the amount and put that amount into a position in which we would not have that available to go further into debt when we are seeing such a skittishness in the American economy about the huge debt that is being created?

Mr. ALLISON. Yes. These are all considerations that the Treasurer—that the Secretary of the Treasury will take into account. These are important concerns that you are raising. We understand those concerns. Those have to be factored into this very complex decision that the Secretary will have to make.

Senator HUTCHISON. I appreciate what you are saying. I don't see, as you do, that people feel like the money is flowing, and that there is credit availability for small business people. I hope you will monitor that very carefully and maybe talk to people on the ground about whether they feel like they are able to get their inventory loans, their payroll loans as they have in the normal processes of their businesses.

Mr. ALLISON. Yes. May I say, Senator, we share your concern. We do talk to many people out across the country. We are listening to small business associations, small bank associations. We understand the frustration of many. This is a very serious recession. We have taken dramatic efforts to deal with it. We look at the situation with small business constantly and discuss ways where we might be even more helpful.

Senator HUTCHISON. Thank you, Mr. Chairman.

Senator JOHNSON. Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman. Mr. Secretary, thank you for your service.

Let me—a couple things. First of all, I held a field hearing of my subcommittee in New Jersey on the foreclosure crisis and one of the things I heard from witness after witness, including actual citizens as well as groups that are working with groups certified by HUD, is that the lenders have a strategy—many lenders have a strategy that some define as the three Ds—delay, deceive, and deny. It actually reflects what many of the constituents coming to my office and letters that I receive beyond my State reflect.

In many cases, we have these institutions, these servicers, telling people what is clearly in violation of the law, is not the law, telling them that you have to be in foreclosure before you can get assistance. That is not the law.

Mr. ALLISON. Right.

Senator MENENDEZ. Taking long periods of time when a mortgage mitigation and/or readjustment is being sought, and then piling on fees and penalties months after the application has been made. Telling them that they need not only to be in foreclosure, but that they need to be delinquent in their mortgages to qualify for a modification. Or steering them into non-HAMP mortgage modifications.

Now, if I can hear at a field hearing what I have heard in my office for months now, how is it that the Treasury Department,

which has the authority to fine servicers for not complying with the loan modification agreements they sign with the Federal Government, has not faced, as I understand it, one such violation?

Mr. ALLISON. Yes. Senator, we share your concern about this and one of the roles of Freddie Mac in this entire program is to audit the program, to go into each of the servicers and determine whether they are conforming with the rules and the law, and we do have the power, as you said, to either withhold payments, and even to call back previous payments if we find that violations have been taking place. We are going to be looking at that.

First, we want to be assembling information about the servicers and their service quality. We are going to be publishing information according to metrics of service quality on each one of these servicers so the American public can see for themselves who is following through with this program effectively and who isn't. We are going to be meeting again with the servicers in early October. We are bringing them into Washington to have an all-day meeting to examine the state of the program and how well they are carrying out their responsibilities on behalf of the program and the public.

We are sincerely concerned about this. We don't think the service quality across the board is at the level that it needs to be, and we are committed to trying to make this better. And one answer is public disclosure.

Senator MENENDEZ. Well, I appreciate that, and I am all for public disclosure, but public disclosure without consequence means nothing.

Mr. ALLISON. We understand. We understand.

Senator MENENDEZ. The bottom line is that there are incentives of all types proposed in the law.

Mr. ALLISON. Right.

Senator MENENDEZ. There clearly were incentives on the positive side to induce and help the servicers to do what we would want them to do in loan modifications. There is also a different type of an incentive, sometimes we call that a stick, when you don't act correctly. However, if the penalty is never used, if I can go through the red light all of the time and never worry about being fined, then guess what? Very often, people will just take that red light when they are in a hurry. There has to be some action upon servicers that consistently have this MO. And if not, they will continue with impunity to the detriment of the homeowners.

Mr. ALLISON. Yes, sir, and we will use the stick when that is called for. I can assure you of that. So we are assembling the information and we will be sitting down with the servicers and speaking with them——

Senator MENENDEZ. Because I have already looked at some of your metrics as to who, of all of these institutions, are performing, and it is like this. Whoosh.

Mr. ALLISON. Exactly.

Senator MENENDEZ. Now, I don't know what these people down here are doing and when they are going to get the incentive to do better, but my patience is quickly dissipating, so I look forward to seeing what we are going to do in that respect.

Mr. ALLISON. Thank you.

Senator MENENDEZ. Second, Professor Warren in her testimony soon to come says that in May, they surveyed the state of lending for small businesses and families and examined the TALF program and their report raises concerns about whether TALF is sufficiently well designed to help market participants meet the credit needs of households and small businesses. It also raised serious doubts about whether the program would have a significant impact on access to credit.

Now, I know that in response to some of my colleagues' previous questions—I am concerned, first of all, under all of these programs, that we have not seen lending be realized. I know that your answer to that is but for TARP, for example, it would have been much worse. That is not consoling to the private sector that is seeking to have access to capital so that they can get this economy moving and their own personal businesses moving again and hiring people and producing goods or services that our economy can move on.

So I listen to story after story of people who talk to me about the incredible percentages above LIBOR in order to get a loan, and I then see this comment about TALF, particularly as it relates to small businesses, and I say to myself, why is it that we cannot structure the program in such a way that meets those challenges and what are we going to require from the TARP recipients as sufficient enough activity as it relates to lending so that, in fact, this is, one, yes, about strengthening those financial institutions, but yes, about lending in the marketplace. When are we going to get that reaction?

Mr. ALLISON. Well, again, I think, as you pointed out and as I have said, lending is stronger than it would have been otherwise. Are we satisfied? No. We are—we need to make sure that, working with the regulators, that the banks retain adequate capital to conduct lending activities.

There is, if you look at the normal runoff of bank loans or years, you would see that actually there is a great deal of lending going on, but there is not enough. In part, this is—there needs to be confidence on the part of businesses who borrow as well as lenders, and we are seeing that there are signs of greater confidence. We had in the month of June, for example, an increase in loan originations across the country. But it is still spotty and it is going to take some time to restore confidence both on the part of businesses and banks to get to—and the capital markets so that we have a strong securitization market again.

So we are not yet out of the woods completely. We have made progress. We want to see progress as much as anyone, and we are working day and night to try to make sure that our programs are as effective as possible in stimulating lending.

Senator MENENDEZ. I will just close, as my time is finished, simply by saying, plenty of people, plenty of entities I know, they have the confidence in their business and their business plan to borrow. The only thing is, when you have rates that are almost usurious, it is pretty difficult to borrow.

And last, it still doesn't answer the question on TALF and the small business community that is the backbone of the country that needs to have access to capital, that clearly is not taking place.

Mr. ALLISON. Well, TALF has been expanding and it has provided material sources of liquidity in the—especially the commercial mortgage-backed securities and the residential mortgage-backed securities markets. Also, the asset-backed securities activities have picked up, as well, thanks to TALF. There are billions of dollars of financing that have been provided, for instance, for credit cards, auto loans, floor plans, that would not have been the case without these programs.

I will share your view, however, that more needs to take place so that rates are appropriate for borrowers and there is ample liquidity in the system. Again, I want to point out, we are not yet where we would like to be, but we are seeing a great deal of improvement in those markets.

Senator JOHNSON. Senator Reed.

Senator REED. Well, thank you very much, Mr. Chairman, and thank you, Mr. Secretary.

Let me just follow up on Senator Menendez's questions with respect to TALF. I think the Treasury reserved about $80 billion to lend into that program, and only about $20 billion has, I think, been committed, so there is a significant gap. In light of what we are all hearing back home, where companies can't get credit, they have a good business plan, *et cetera,* I would think that the problem we would have is these funds would run out, not that there is no call on them. Can you help me understand?

Mr. ALLISON. Yes. Well, the TALF program has been expanding and it has provided substantial liquidity. We have set aside funds for the TALF and actually recently increased the amount of commitment to the TALF program as it moves forward into next year. It is still a very important part of securitization, but we have seen overall spreads come down thanks to TALF, so funding is more affordable today than it was before and it is more ample.

Senator REED. No, I absolutely agree with you, but we continually hear, and you do, also, that good businesses can't get loans. Small businesses can't get loans. No one can get loans. It might be sort of urban folklore, but it is a very powerful one. It is contributing to the confidence, or lack of confidence, of the public. I would think you would try to, having committed the money, expeditiously try to get it out——

Mr. ALLISON. Yes.

Senator REED. ——not foolishly, but with purpose, and I hope you will do that.

Mr. ALLISON. Well, we are doing that, sir, and we will try to keep that going with great momentum.

Senator REED. Now, let me follow up another theme of my colleague from New Jersey, and that is the home foreclosure. I listened and you, I think you are aware of the problems, you are trying to deal with them. But at some point, if these measures are not eliciting the proper behavior, particularly after you make some sanctions or take some sanctions, the question is, what more can we do? The clock is ticking. If we don't really, I think, turn the mortgage market, or build on the stability that you have helped provide——

Mr. ALLISON. Right.

Senator REED. ——by next spring or next summer, people, I think, will continually feel that they—the economy has improved, the market, we hope, is still up, but they have missed out.

So my question is, is there anything more we can do legislatively, and I will sort of answer, in a way, my own question, that if these results continue to be as Senator Menendez described, we will do more things legislatively, and hopefully they will be helpful.

Mr. ALLISON. Yes. Well, again, we are seeing that the Mortgage Modification Program is gaining steam and we are continually in dialog with the servicers to make sure we ramp this up as quickly as we possibly can. We are most likely going to beat our target that we set for half-a-million trial mortgage modifications underway by November 1. But we are not stopping there. We want to keep on ramping this up. We are monitoring which banks are lagging, which banks seem to be doing a good job, what is the service quality, and so forth.

We feel the same sense of urgency, Senator, that you do and your constituents do. We have a long way to go, but we are hopeful that as we move toward the end of the year, this program will be at pretty much full steam and we will be moving forward into next year with a lot of momentum.

Senator REED. Thank you very much, Mr. Secretary.

Mr. ALLISON. Thank you very much, Senator.

Senator JOHNSON. With that, Mr. Allison, thank you very much for being here. You may be excused.

Mr. ALLISON. Thank you, Senator.

Senator JOHNSON. Next comes panel number two, and it involves Neil M. Barofsky, who is the Special Inspector General for the TARP. Prior to his serving in his current position, he was a prosecutor in the U.S. Attorney's Office with the Southern District of New York for more than 8 years.

Gene L. Dodaro is the Acting Comptroller General of the GAO. He has worked for over 30 years in a number of key positions at GAO, including Chief Operating Officer.

Elizabeth Warren is the Chair of the Congressional Oversight Panel. She is the Leo Gottlieb Professor of Law at Harvard University.

Welcome to all. Mr. Barofsky, why don't you lead it off. Welcome.

STATEMENT OF NEIL M. BAROFSKY, SPECIAL INSPECTOR GENERAL, TROUBLED ASSET RELIEF PROGRAM

Mr. BAROFSKY. Thank you, Mr. Chairman, Members of the Committee. It is an honor to appear before you today as the Special Inspector General, and it is also an honor to appear sitting next to my copanelists and partners in providing oversight to this historic program, Mr. Dodaro and Professor Warren.

It has been about a year since TARP was enacted and EESA created this program, and about 9 months since I took office. During that past year, the program has changed dramatically, as was detailed earlier in the testimony of Mr. Allison. What started as a $700 billion effort to purchase and cleanse books—toxic assets off the books of financial institutions has evolved over time to 12 different programs that involve, when combined with other Federal programs, of up to approximately $3 trillion.

As the TARP has changed, so has our office. When I started on December 15, it was just me and my deputy, Kevin Puvalowski. We have grown in that time to 86 strong and we conduct our oversight through our two operational divisions, Audit and Investigations.

Our Audit Division has been putting out audits recently advancing our goal of achieving transparency and accountability in the TARP program. We recently issued audits on use of funds, on outside influences on the TARP application process, and on executive compensation, and we have a number of audits coming up in the next couple weeks, including Bank of America, the initial funding, and the bonus payments to AIG. In the coming months, we also have projects that we are doing with the Congressional Oversight Panel on warrants and on corporate governance with GAO.

I would like to talk very briefly about one of our audits, which was our use of funds audit. That was the first audit that my Audit Division put forward, and this was from late December, when we made our first recommendations to Treasury that they, in order to advance basic transparency, require TARP recipients to report on how they are using TARP funding. The last Administration refused this request, as did the present Administration, so we took matters into our own hands.

And what we did is we sent out letters to the 364 financial institutions, which at that time had received TARP funding and asked them a simple question. What did you do with the money? We got 364 responses, all of which are now posted on our Web site and summarized in an audit report we put out over the summer. And what we learned is that financial institutions did a number of things with the money.

As to lending, some of them were able to use TARP funds to increase lending and others reported that they decreased lending less than they would have otherwise or were able to maintain lending. But, of course, that is not all they did with the money. As our audit report indicates, they reported that some institutions used money to build up their capital cushion to withstand future losses. Others used the money to acquire other financial institutions. Still others used it to pay off debt that they had or acquire mortgage-backed securities.

The point is that, as we proved, financial institutions can and should be required to provide this basic transparency of letting the taxpayers know what happened to their money. Treasury still refuses to adopt this recommendation, and with all due respect to Mr. Allison, the things that he is describing that they are doing falls far, far short of meeting this basic level of transparency.

Our Investigations Division has also been busy. Although I can't comment on a lot of the investigations because they involve confidential ongoing criminal investigations, several things have become public. For example, we helped bring some measure of justice to investor victims of Gordon Grigg down in Tennessee, who was selling a fictional asset called TARP-backed securities. He is now serving 10 years' imprisonment.

We have also worked with our civil partners, such as the FTC, helping to shut down several scams that were targeting struggling homeowners in the Mortgage Modification Program. We also have other ongoing investigations that have been made public, more

complex investigations, like that of Colonial Bank, a bank that had received preliminary approval to receive $553 million of TARP funds. Following that approval, my office took several law enforcement actions, including serving subpoenas, and over the summer executing search warrants down in Florida, including on Colonial's offices. That TARP money never went to Colonial. It is now defunct and our criminal investigation with the Department of Justice is continuing.

Similarly, we have been supporting the numerous investigations into Bank of America, including the investigations by the New York State Attorney General, the SEC, and the Department of Justice, as we look into what happened with the merger of Merrill Lynch and the circumstances surrounding some of their disclosures, as well as the circumstances surrounding their receipt of additional TARP funds.

Mr. Chairman and Members of the Committee, as I said before, it is an honor to be here before you. The support of this Committee has been absolutely instrumental to us as we carry out our role of providing oversight and I thank you for that. I look forward to answering any questions you may have. Thank you.

Senator JOHNSON. Thank you, Mr. Barofsky.

Mr. Dodaro.

STATEMENT OF GENE L. DODARO, ACTING COMPTROLLER GENERAL, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. DODARO. Thank you very much, Mr. Chairman, Senator Johnson, Senator Corker, Senator Merkley. It is a pleasure to be here today to assist your deliberations to take stock 1 year after the Emergency Economic Stabilization Act was passed.

At this juncture, our overall assessment is that the TARP program, in particular the Capital Purchase Program, made a very important contribution to improving the situation with the credit markets, but when you look at the full portfolio of programs under the TARP umbrella, in many respects, they are still a work in process, with many uncertainties and challenges that lie ahead, and some of the ultimate return on the investment remains very unclear at this point in time.

Now, on a positive standpoint, while it is very difficult to isolate TARP's specific impact given the wide range of other programs by the Federal Reserve and FDIC, overall indicators that we have been tracking on interbank lending rates along with interest rate spreads show dramatic improvement since October 2008, when the Capital Purchase Program was announced, along with other Federal initiatives.

And as you have heard, there have been repayments made for the Capital Purchase Program by many institutions, $70 billion. There has been $2.9 billion in warrants that have been exercised and about $7 billion in dividend payments. However, there are hundreds of other institutions that still have received TARP funds and are still receiving them under that program and it needs active management to ensure that they are complying with all the requirements.

In other cases, there are investments that have been made, particularly in the case of AIG and the auto industry, where there is

a clear need to have a very well-defined exit strategy on the part of the Government that balances returning those companies to private control while managing and making sure that they are minimizing the potential losses to the Federal Government. We are looking very carefully at that and evaluating those exit strategies that are being contemplated by the Treasury Department and others.

And as you have heard today, the Home Affordable Modification Program is in its very early stages and a long way from fulfilling the expectations that many people had for that program, and other programs are just in the process of getting off the ground.

So from a total standpoint and looking at TARP, it has had some positive impact on the credit markets, but a lot of the programs have very uncertain outcomes at this particular point in time.

Now, in order to foster greater accountability and transparency, GAO has issued about seven reports. We are required to report every 60 days. We have had 35 recommendations in those reports to make sure that better controls were put in place, that there was better oversight, greater transparency and accountability. Treasury has agreed with the vast majority of those recommendations and has partially or fully implemented most of them.

However, many remain outstanding, including putting in place a chief of the Home Ownership Preservation Office, which we believe was very important to help give additional emphasis to that program and to have a better communication strategy. They have made some strides in this area, but this will be really important going forward, particularly as it relates to communicating whether or not they are going to extend or propose to extend the TARP program for another year.

So those activities are really important. We are in the process of completing the first annual financial audit of the Office of Financial Stability's financial statements. We will be reporting soon on that financial audit, which will include valuation of all the investments that they hold to date, so I think it will provide pretty good illumination on those points.

We have efforts underway to look a the automobile industry in terms of steps that they have taken, GM and Chrysler, and also with our newest statutory authority to look at the Federal Reserve's oversight of AIG, we are going to look at that effort along with the partnership efforts we have with Mr. Barofsky and his team to look at how the Federal Government is pursuing different corporate governance strategies and oversight mechanisms across a wide range of entities, both within the TARP program as well as Fannie Mae and Freddie Mac, for example.

That concludes my opening statement, Mr. Chairman. I would be happy to answer questions at the appropriate time.

Senator JOHNSON. Thank you, Mr. Dodaro.

Next is Elizabeth Warren.

STATEMENT OF ELIZABETH WARREN, CHAIR, CONGRESSIONAL OVERSIGHT PANEL FOR THE TROUBLED ASSET RELIEF PROGRAM

Ms. WARREN. Thank you, Mr. Chairman, Senator Corker, Senator Merkley. I appreciate the opportunity to be here today to talk about the work of the Congressional Oversight Panel.

I always need to start with a disclaimer. I am the Chair of the Congressional Oversight Panel, but it is a five-person panel; and because I do not operate from a script, that means my words have not been preapproved. So I speak on my own behalf and not on behalf of my other four copanelists.

I want to start this, because you asked us to talk about 1 year later—many people have talked about where we were a year ago, that we had major corporations that had failed either through bankruptcy, others on the brink of collapse. We had families that were concerned about the loss of savings. They watched their home equity disappear. Chaos in the markets. And TARP was offered as the centerpiece of the Government response: a $700 billion program to stabilize the financial system.

From the outset, it was obvious that a system so large would need very careful oversight. In the years since then, the mission of TARP, the work of TARP has grown, and oversight has had to grow along with it.

The Congressional Oversight Panel was your creation to help in part with that oversight. We are the ones who are responsible for issuing reports every 30 days to Congress. Here is a stack of our reports. We have done 10 regular reports and two special reports that were required by statute. I talk about those more in my written remarks, and I am glad, obviously, to answer any questions about them.

In addition to our reports, we also hold hearings, and so we have so far had 11 hearings, including five field hearings that have taken us to some of the areas around the country that have been especially hard hit by the economic crisis.

In fact, as I am here today, the rest of the panel is in Philadelphia in a hearing on the mortgage foreclosure mitigation system. We are hearing from Treasury there and from many people about various programs underway and how they are working on the ground.

Of all the questions, though, that we get and I get as Chair of the Oversight Panel about TARP, perhaps the most frequent one is just the question: Is it working?

It is a simple question, but it actually is a very difficult one to answer. And part of the reason starts with the design of TARP. We said in the statute that there were five specific goals: to restore financial stability, protect home values and family savings, promote jobs and economic growth, maximize return to taxpayers, and provide for public accountability.

Now, any program under TARP that did all five of those things I think we would all applaud and say that was a success. But how do we evaluate programs that do only some of those? What becomes even more difficult is how do we evaluate programs that advance some of those goals at the cost of others of those goals. And this is not merely a question that is hypothetical.

In fact, in February, the panel released a report evaluating Treasury's largest acquisitions of bank equity and warrants under the TARP program. Despite the assurances of Secretary Paulson that the initial purchases of stock and warrants of the banks were made at full value, our analysis showed that Treasury paid substantially more for these assets than they were worth. In fact, for every $100 spent by Treasury, the taxpayer received assets that were valued at that time on average at only $66.

Now, these capital purchases very likely helped stabilize the markets. They achieved one of the key goals of TARP. But Treasury paid substantially more for these assets than their market value, thereby subsidizing the banks at a significant cost to the taxpayers. So any discussion of success has to hit this basic conundrum.

The Oversight Panel can contribute to this discussion by investigating what is going on, assembling the data, and making the recommendations. We can press Treasury, as we have, for greater clarity, greater transparency, and greater accountability. But ultimately the American people will decide if the right balance between the banks and the taxpayers has been struck.

In the last year, the apprehension that pervaded this country has turned into something else: frustration and anger. Today's fragile stability has come at an enormous cost to the American people. Taxpayers have a right to know whether anything fundamental has changed to prevent this crisis from happening again.

This brings us back to a topic that the panel first addressed in our special report on regulatory reform last January. As we said then, we must change the rules of the financial system to make certain this crisis is not repeated.

Thank you again, and I look forward to whatever questions you may have.

Senator JOHNSON. Thank you, Professor Warren.

The clerk has asked to put 5 minutes on the clock.

For the entire panel, each of your organizations has offered recommendations to improve the TARP program. How would you characterize the TARP's receptivity and responsiveness to your recommendations? And are there recommendations that have not yet been implemented which all of you agree on or feel should be implemented in the near future? Mr. Barofsky.

Mr. BAROFSKY. A number of our recommendations have been implemented, particularly on the compliance side. But at its core, our biggest frustration and I think the most significant recommendations that have not been adopted have been related to transparency.

Touching on something Professor Warren said, we believe that a lot of this frustration and cynicism and anger comes out of the lack of transparency in the TARP program. Taxpayers really want to know and should have a right to know what is going on with their investments. How are the funds used? What are they worth on a more regular basis than the statutorily required annual review that GAO does? With some of the new programs they are rolling out, like the PPIP program, what is being purchased with their money?

We believe these are fundamental aspects of transparency that will make this a better program, a better understood program, and a better run program, and Treasury's failure to adopt these recommendations in my view has been one of the great failings of the past year.

Senator JOHNSON. Mr. Dodaro.

Mr. DODARO. In general, we have received good receptivity to our recommendations. There are several outstanding ones. One is to name the new head of this Homeownership Preservation Office, which I think is very important given all the comments that have been made and questions to Mr. Allison this morning.

But I share some of the frustration that Mr. Barofsky mentioned early on. In the very first report that we issued on the TARP program last year, there was a reluctance to adopt the recommendation to disclose the total lending activities of the recipients of the Capital Purchase Program. I think that got the program off to a bad start. It created a lot of skepticism about what the banks were doing with the money. And it was difficult to come up with a baseline as to the lending activities and whether or not—how to measure whether TARP was achieving the objectives of the statute.

There has been significant progress since then due, I believe, to active oversight on the part of the Congress, to require the prior Administration to begin those reports, and now that we have those reports, they are providing better insight into the overall lending activities, not only for the large institutions but for the small ones as well.

I would be happy to submit a detailed summary for the record of all 35 of our recommendations and where things stand.

Senator JOHNSON. Ms. Warren.

Ms. WARREN. Well, again, there has been some good news. We have pushed for a long time for more transparency, more accountability, more clarity on goals. And when I measured against where we were last November, we are in a much better place than we were before. However, we think there is still room to travel along the transparency road.

We made some recommendations on mortgage foreclosure mitigation that Treasury used and altered their plans somewhat. I would like to think we had an effect on the warrants repurchase program. They did not specifically adopt a recommendation, but after we had identified that we were receiving what we thought was too little money, the price jumped up, and that was good for the American taxpayer. So there has been some good movement.

I want to say, though, we have had some very specific recommendations that at least thus far Treasury has not shown a lot of interest in.

We have recommended, for example, in our most recent report on autos that the taxpayers' ownership, the shares that Treasury now holds in Chrysler and General Motors should be put into a trust to be better managed on behalf of the taxpayers.

We have argued for repeating the stress tests and extending them past the 19 largest financial institutions. We have raised deep concerns and made many recommendations about getting the troubled assets off the books of the banks, where they remain.

And we have made recommendations about restarting small business lending, where we are very concerned that there has been inadequate work done.

We also are concerned that parts of the foreclosure mitigation process are just—they are just ignoring big pieces of the problem out there.

So we also have made about, I think—it is hard to count these; we do long and complicated reports—roughly about 20 big recommendations and probably about 20 more technical and smaller recommendations. We would be glad to offer those to you, Senator, in some detail and show you the extent of Treasury's response, if that would be helpful.

Senator JOHNSON. Yes. Thank you, Ms. Warren.

Mr. Barofsky, are you prepared to delve into the lender operations and check to make sure they are following the HAMP rules correctly, training the staff adequately and generally living up to the contractual arrangements?

Mr. BAROFSKY. We have an audit ongoing right now. A couple of my auditors just got back from Texas. They are doing a site visit on one of the mortgage servicers, and all of this is going to be encompassed within that audit, which we hope to get out late this year or early next year.

In addition, we have a hotline that is up and running. We have received probably about 7,000—close to 7,000 inquiries on the hotline. It is available on our Web site where we have had about 26 million hits. And a lot of these are homeowners who are complaining and letting us know their frustrations.

We put together a management report to Treasury identifying a lot of the frustrations, which I heard were exposed at Senator Menendez's hearing, as he described it, and brought those to the attention of Treasury as well as to try to get them to work with these servicers to make sure they are living up to their end of the bargain.

Senator JOHNSON. Senator Corker.

Senator CORKER. Thank you, Mr. Chairman, and I thank each of you for your testimony, but also for what you are doing on a daily basis. I do not think there is any question that having folks do what you do certainly causes people to attempt to be far more transparent, and it is a very good check and balance.

We had a witness earlier whom I talked with in the hallway after the meeting, and, you know, there was not a lot of illumination for many, many reasons, I think, as to the program itself. And I know that you all have issued reports, and we were able to read those, and your testimony kind of tells us a little bit about where we are as far as the integrity of the program goes.

But I would like to move more toward—we have some decisions or there will be decisions made, I guess, in the next several months. You all are out there on the ground, you know, and in some ways auditors, as you are in some ways, have a better sense of where things are in some cases than the folks who are away from that.

Should we not go ahead and sunset TARP at the end of the year? I really feel another moral hazard being created right now, especially as it relates to commercial real estate, where I think many

institutions and investors are thinking that we are going to ride to the rescue; and instead of getting their balance sheets where they need to be by issuing stock, which dilutes ownership, which they are resistant to do as long as they think that the Federal Government is going to ride to the rescue, they are missing a window of opportunity to rectify what no doubt is going to be a problem down the road for them.

Professor Warren, I wonder if you might speak to that.

Ms. WARREN. Yes, Senator. I want to start by saying something that is very unpopular probably everywhere. I am very concerned about the stability of our banks right now. Notwithstanding the good news and how share price is up on Wall Street for some financial institutions, I just want to remind everyone that the toxic assets remain on the books of the banks; the commercial real estate mortgages are a coming crisis; small banks are continuing to fail. And we were talking a year ago about "too big to fail." We are now facing an industry that is more concentrated than it was a year ago, and "too big to fail" is upon us now in a much larger sense.

Having said that, I also have deep concerns about the impact that TARP has on this market. I share your concerns about the effect of ongoing taxpayer subsidies and whether any market functions so long as it believes that there is a guarantor, that there is someone, the taxpayer, who will continue to subsidize the decisions that are being made and the operations, and stand in this "too big to fail, we will take care of you, so if you get out there and gamble you take all the profits if you win, and we will take all the losses if you lose."

I just want to say I think it does have distorting effects on capital investment. I am very concerned about the absence of an exit strategy for how we are going to withdraw those subsidies and whether we will have confidence that we will continue to have a stable banking system afterwards.

Senator CORKER. But some of the funds have been allocated—thank you for your response. Some of the funds have been allocated already for PPIP and other kinds of things. Those are not just going to go away, and they are primers. And I know we had some discussion earlier, and I agree with Senator Gregg that the securitization market will come back as soon as the people feel confident again in that market. There is nothing really, I do not think, exceptional that we necessarily need to do in that regard.

So those programs are not jut going to go away. I mean, they are sort of going to wind down over time. So back to the sunset issue.

I think as long as this cloud is out there—or this rainbow for some is out there—I think we are going to continue to have people not doing the things they could do today to get their balance sheets in better order. And I am just wondering if you have a recommendation regarding whether—I think it should be sunsetted, and I know that we have numbers of banks that probably are on the troubled list. I think there are resolution mechanisms in place to deal with them, because they are typically not the largest institutions. But I would just love to have your response.

Ms. WARREN. I appreciate it, Senator, and I am struggling. I do not want to be nonresponsive to you on this, but I think this one is a really tough question. I am less confident that we have ade-

quately arranged for the death of financial institutions that need to fail. And so the absolute worst-case scenario from my point of view is that we say, OK, this is it, you are on your own. Whether we do this with TARP still alive or not, if we let these banks exit the system and you say you are out there, you are on your own, you go out, you make some profits, you make some bad decisions; and then when they get into financial trouble they race back to the taxpayer and say you are going to have to bail us out again.

So I am concerned that TARP is part of this larger fabric that is not only affecting investment, as you rightly identify, but it is also just a part of this larger decision making and risk taking and concern over whether or not the American Government is now in a position to say with credibility: Your business has failed. You failed. Your shareholders are wiped out. Your debt holders are going to take that hit, and it is on you. It is not on the taxpayer.

So I just think we have to be really clear in that place.

Senator CORKER. May I ask one more question?

Senator JOHNSON. Yes.

Senator CORKER. And, Gene, I know you may want to respond to the last one, and you can do that in just a second.

There is not a resolution mechanism for the largest entities, and I know Senator Warner and I have drafted a mechanism that allows the FDIC to come in and do the same thing with large, complex bank holding companies that they do with most of the banks you are talking about now.

I assume that you would support having that type of mechanism in place in lieu of what the Administration has put forth as part of their financial regulation, which, in essence, codifies TARP and gives them the ability in perpetuity to use taxpayer monies for large entities.

Ms. WARREN. Senator, I emphasize I speak only for myself because others might not agree with me. But I believe that a meaningful resolution authority is a central part of getting this economy back on its feet, good decisions being made, and a credible statement by the Government that when you go out there and take risks, if you fail, you are on your own.

Senator CORKER. Very good.

Gene, I do not know if you want to comment.

Mr. DODARO. Yes. Relevant to your question about making a decision on TARP's extension, I would make two points that I think are very important.

Number one, TARP should not be looked at in isolation of the other activities being carried out by the Federal Reserve, FDIC, and others. As the program has unfolded, TARP has been very much intertwined with joint activities—TALF being one example, with Federal Reserve activities being on point, TARP being the back-up for that activity, the PPIP program, activities there with FDIC, *et cetera.* And with FDIC now we have had 94 banks fail so far this year. There are over 400 banks on the troubled list that they publish. So that would be my first point, number one. This ought to be looked at and presented to the Congress as an integrated strategy on the part of all actors that are relevant to dealing with this issue.

Second, there is plenty of time to have a good, analytical basis for underpinning the decision. We are not in the same type of emergency situation we were before where people are rushing up within 2 weeks and asking for a lot of things. There is plenty of time here, and there ought to be a good set of indicators in place with clear expectations as to what will be achieved and how we will measure progress going forward under any extended program.

We are looking at that issue now as part of our detailed anniversary report on TARP. We may have some recommendations on that going forward.

Senator CORKER. What would be the date of that?

Mr. DODARO. That is going to be out early next month.

Senator CORKER. Brilliant. Mr. Chairman, thank you.

Senator JOHNSON. Senator Merkley.

Senator MERKLEY. Thank you very much, Mr. Chair, and thank you for your testimony today. I wanted to start by inquiring about the commercial and small business lending.

Mr. Barofsky, in your comments you note that it is becoming more and more clear that the commercial real estate market might be the next proverbial shoe to drop, threatening to increase the pressure on banks and small business. And, Professor Warren, you note that, "The report raised concerns about whether TALF was well designed to help market participants meet the credit needs of households and small businesses. It raised serious doubts about whether the program would have a significant impact on access to credit."

I have many, many small businesses and real estate investors who are very, very concerned. On the real estate side, many have 7-year balloon mortgages. The goal for them is to roll those over. Many of the folks who have those loans have paid consistently, but the value of their asset has dropped from 7 years ago, and so even when they have longstanding banking relationships, they are often being told, "We are sorry. Because your asset has dropped in value, we are not going to roll over this loan." Well, obviously, if you have a 7-year balloon loan that you cannot roll over, you are in deep trouble.

And then on the small business side, I just continuously have a stream of small businesses that are saying whatever we are doing for the big Wall Street firms, it is not help us as small businesses.

Are these as serious as it appears at the ground level? And how do we make progress?

Ms. WARREN. Senator, yes, the problem is as serious as it appears at the ground level. I will start by saying we need better data in this area. We would like to track it with more specificity. But the indicators we can find all say there is a problem with small businesses.

The coming problem with commercial real estate mortgages is exactly as you identify, not because the businesses are not paying, but because when these resets come up, the value of the assets will be sharply diminished, and as I understand it, banks have also changed their lending standards. So what used to be a 95-percent loan-to-value ratio mortgage is now a 65-percent loan-to-value ratio mortgage on an asset that has declined in value perhaps by a third.

These are just numbers that are impossible for the operator of the business who is trying to pay that commercial mortgage.

Let me identify where I think at least a part of the core of the problem is. It is disproportionately smaller banks—not the behemoths but the intermediate size and smaller banks—that do the small business lending and the commercial real estate mortgages. That means that the health of this sector of our banking industry is critical to that portion of the economy, the commercial real estate and the small businesses.

But those small banks right now continue to have toxic loans on their books. They hold these commercial real estate mortgages that are quite problematic for them. They hold more whole loans, which means they are not in the securitization business nearly as much. They do not have the benefits of being too big to fail. In fact, we are watching them fail in large numbers. And the programs that Treasury has designed have disproportionately gone to the largest financial institutions and not to the smaller institutions.

So the problem is more systemic as we see it. We have actually done a couple of reports on this and gathered as much data as we have, but we have urged Treasury in our recommendations to reconsider its allocation of its resources to deal with the toxic assets that remain on the books of the small banks, because as long as those toxic assets are there, when money comes in they have a tendency to what to hold onto it to offset future losses. So deal with those toxic assets and have programs that will help directly jump-start small business lending.

Senator MERKLEY. A number of the community banks have called me to say the inspectors looking at their books are basically telling them to hold onto their funds because of the change in the value of these assets. So I wanted to not that because I do not think it is just simply their internal decision, but also decisions being driven by the very inspectors that we are sending out to help restore solvency.

Ms. WARREN. Indeed, Senator. I did not mean to imply that they were doing anything wrong. They are doing what they are told to do so long as we have not resolved the toxic assets on their books.

I go back to where we were a year ago since that is today's topic. We started this process saying—Secretary Paulson came to this very room and said we need to get those toxic assets off the books of the banks so that, in effect, we will have a stable banking system. That means that when money comes in, it is there to be lent out. And we have not done that.

Senator MERKLEY. I am basically out of time, but I want to finish this thought, if I can. Does it make sense then, as some businesses have proposed, that in a situation where there is a 7-year performing loan, that they have made all their payments, that there be some facility that—and if it is not TALF, how do we do it?—some way that banks can relend to those customers who have been making good payments over 7 years, even if their assets are not quite up to par because of the drop of the real estate market, in order to not only directly assist those folks, but to avoid the systemic risk imposed by the potential collapse of commercial real estate?

Ms. WARREN. Senator, if you will permit me a slight dodge.

Senator MERKLEY. Please.

Ms. WARREN. I will say that there is no doubt in my mind we are going to have to address the coming problems with commercial real estate mortgages, and we are going to have to be far more creative than we have been up to now. And if you will let me, I will stop there because my panel has not gone further.

Senator MERKLEY. Thank you.

Ms. WARREN. Thank you.

Senator JOHNSON. Senator Bennett.

Senator BENNETT. Thank you very much, Mr. Chairman, and thank you all for what you do and for your being here.

I remember very clearly the discussion just a year ago where we created you, because the first proposal from Secretary Paulson did not include an Inspector General and did not include a Congressional Oversight Committee. And I remember the comments. Senator Corker and Senator Gregg were in the room. Of course, Senator Dodd was presiding at that conversation, and there was no reporter, so we are dependent on our respective memories.

But I remember very clearly the Senator making the comment: "I do not care who he is. I do not trust any Secretary of the Treasury with $700 billion and no reporting relationship and no oversight." And it was out of that conversation that we created you, and we are delighted with the work you are doing.

Let me try to look into the future. One of the advantages of being the last one is that I have seen all of my penetrating questions already asked and either answered or dodged, as the case may be. But let us look at where we stand now. We were told by Secretary Paulson, "I have to have the $700 billion number. I will not have any credibility in the world if I cannot stand up and the headline says in the *Financial Times* and the *Wall Street Journal,* "$700 billion."

Now, I checked with economists whose judgment I trust, and they said, "You cannot shovel $700 billion out the door in anything like the timeframe that we are talking about." And I said, "What is the fastest we can do it?" And he said, "$50 billion a month." So that is where the first 350 came from. I said, "Why don't we give him $250 billion for 5 months and see how it works?" And Secretary Paulson's response was, "I got to have the $700 billion headline."

So we gave them the $700 billion headline, but the fine print was you get 250 and then you get 100 and then you come back to the Congress for the other 350. So you have got the headline to tell everybody we are going to stabilize things, but we are going to watch you as the money goes out.

All right. Now it is a year later, and as I understand it, the total amount that is disbursed or committed, less the principal repaid—and I will bypass the issue that Senator Hutchison raised, because we expected as the stuff got repaid that it would not be recycled. Indeed, we thought we wrote that into the law, but the Treasury lawyers now say we did not and tell us, "No, this is what the law says." Well, you know, we wrote the law, but all right, we will leave that one.

So $404 billion, either disbursed or committed, which leaves $295, $296 billion available. Let us talk about what that is going

to be used for, and do you have any sense as to—is it going to be the commercial real estate market that that is going to be used for? Where is Treasury thinking that that nearly $300 billion left out of the $700 billion that has not been committed or disbursed and, looking forward, even though this hearing is supposed to be retrospective, looking forward, with those of you who are monitoring this, where do you see that going?

And to your point, Professor Warren, you said, "We were urging Treasury." Did they listen to you? Does anybody at Treasury respond, Inspector General, when you say you have got to be more transparent about this, that, and the other? The GAO shows up and says you have botched all of this kind of accounting and analysis. Does anybody respond to what you are doing?

So those two questions, if you would.

Mr. BAROFSKY. To the latter question, they do respond, and although I have some great frustrations on the issue of transparency, they have adopted a number of our recommendations. If you take a look at where we were when I first took office on December 15 compared to where we are now, a lot of the aspects of this program, particularly from oversight-enabling provisions and conditions in the contract—remember, when we first started this, money was being pushed out with virtually no conditions and no oversight-enabling provisions and we made a series of recommendations, I think on my eighth day, that have largely been adopted and the program is less susceptible to waste, fraud, and abuse as a result of those recommendations.

So there has been some progress, and I don't mean to suggest that there hasn't. However, in certain areas, particularly with respect to transparency, I think they have got a long way to go.

With respect to the remaining funds, I mean, Treasury has preliminarily indicated where a lot of that money they anticipated might go, in programs that have been announced but the money hasn't formally been obligated or committed. It is just $15 billion to back up small business loan-backed securities, still some headroom on the Capital Purchase Program. There is a lot of money that they have allocated toward the TALF and toward the PPIP program. Although Mr. Allison said $40 billion is going to be committed, 30 of the Treasury money, they have indicated that that program may grow to larger amounts. So we have some guidance there.

And clearly, there is still some that they are holding back to see what happens, if it is necessary or not, and I think commercial real estate is something that we have all identified as a major potential area where there may be a need for more Government involvement.

Mr. DODARO. In terms of the recommendations, they have agreed with the vast majority of recommendations we have had, and while it took some effort initially last year to get moving on some of the reporting requirements for transparency, they have taken that and adopted it and we are pleased with the progress that they are making in that regard. We do have a few open recommendations that they are still considering.

Now, with regard to the remaining funding, we have been pressing Treasury to try to obtain the same type of answers that have been tried to be sought after today and we will continue to do that.

As I mentioned in my response to Senator Corker, we are planning to include some information about what we think should be underpinning whatever decision is made. So far, Treasury has mentioned they may focus on small banks and small businesses with the remaining portion of the program. The estimates that they have currently made about the potential use of the funds are outdated and need to be updated.

And I would reiterate my point, Senator Bennett, about this decision needs to be made in the context of what also the FDIC and the Federal Reserve and the others who are having similarly related programs. As you know, in the American Recovery and Reinvestment Act, there was additional funding for small businesses included in there and actions the SBA was supposed to take.

So all these things, I think, need to be looked at on an integrated basis, because the Federal Government, by and large, is making a huge commitment and there needs to be clear objectives if additional funding is going to be provided.

Ms. WARREN. Senator, we continue to remain very concerned about the toxic assets that remain on the books at the banks, and I don't understand where Treasury is going next to deal with that problem. We have indications that the housing market and the resulting mortgage foreclosures are going to continue to be a huge problem. Treasury speaks about meeting its goals, but they are modest relative to the size of the number of foreclosures that are coming in. The commercial real estate mortgage market looks even more problematic going forward.

That means that the value of the assets on the books of the banks may be headed down, not up. And until we find a way or commit ourselves to a way to say, one way or the other, we are resolving those assets on the books of the banks, whether the banks have to be closed, whether their equity has to be wiped out, whether their debt holders have to take the hit, whether the American taxpayer is going to have to subsidize it, until we get down to dirt, to something that is solid that we can put our feet on, our financial institutions are standing in a secure place, we can't rebuild and know that we are safely past this crisis.

So I wish I had an answer, Senator, but I am at a loss. We are in a better position than we were a year ago in two meanings of that word. No one thinks we are going to wake up tomorrow morning and everything will have crashed about our ears. That is obviously a real advance. We are also in a better position in dealing with Treasury and how they have dealt with the $700 billion, and it that is it is more transparent than it was before. The programs are more explained than they were before.

But the big plan, the question about how we are going to get these toxic assets out of here at a time when the real estate mortgage market is still in trouble and the commercial real estate mortgage market may be getting into more and more trouble, I am not hearing the plan. So I don't know what they are planning to do with this money or with any other money.

And as Gene said, and I really don't want to pass this by, we talk about TARP. You created us to be oversight for TARP and we certainly do that, but it is a larger financial context here. The Federal Reserve has committed substantial assets of the American tax-

payers through guarantees and through loan programs. The FDIC is part of the overall program. These pieces all tie to each other, and at this moment, I can't say that I have heard the plan for getting things resolved and getting out of this crisis.

Senator BENNETT. Thank you, Mr. Chairman.

Senator JOHNSON. Thank you for this testimony to this panel, and you may be excused.

With that, this hearing is adjourned.

[Whereupon, at 12:47 p.m., the hearing was adjourned.]

[Prepared statements and responses to written questions supplied for the record follow:]

PREPARED STATEMENT OF CHAIRMAN CHRISTOPHER J. DODD

Good morning. A little over a year ago, Treasury Secretary Henry Paulson, Federal Reserve Chairman Ben Bernanke, and SEC Chairman Chris Cox came to Congress with an urgent message: The American economy was on the brink of total collapse. And they needed $700 billion of taxpayer money to stop it.

Already, our Nation was in the midst of an economic crisis that threatened small businesses' ability to make payroll, cost us more than half-a-million jobs, turned the American Dream of homeownership into a nightmare, kept students from getting college loans, and wiped out hundreds of billions of dollars in savings that Americans were counting on for their retirement.

With financial giants toppling what seemed like every day, and with businesses large and small suddenly unable to access the credit they needed to operate, we clearly needed to act.

But when the Bush administration's proposal emerged, it was clearly unacceptable.

They were asking Congress for a blank check, with no protections for the taxpayers on whose account it was being drawn.

Their proposal included no congressional oversight—and they even wanted to prohibit judicial and administrative review of the Secretary's decisions.

In short, the Bush administration asked Congress to put an unprecedented amount of taxpayer money and executive power under the unchecked control of one unelected individual, with no guidelines to ensure that it would be used properly—without even so much as an office with a dedicated staff to keep track of where it was going.

Doing nothing wasn't an option—but neither was this proposal.

The crisis demanded that we bring together members of the House and Senate, Republicans and Democrats, and hammer out a better solution for the American people.

So we fought hard to include taxpayer protections and meaningful oversight.

We fought to ensure that if ordinary Americans who had done nothing wrong were going to pay for this stabilization effort, they would get to share in the benefits if companies became more profitable—an initiative driven by Senator Reed.

We required Treasury to put homeowners and the financial security of American families at the top of its agenda.

We established the three oversight bodies that are before us today.

And we made certain that we put first and foremost the principle that with this assistance to the financial sector would come real change so that a crisis like this wouldn't happen again.

Am I glad that we had to spend this money? No.

Do I share the anger and frustration that many Americans felt and continue to feel that Wall Street greed and regulatory neglect left taxpayers on the hook? Absolutely.

But I am also proud of the hard work we did a year ago to protect taxpayers and introduce some accountability into the stabilization program.

I am relieved that we have managed to bring our economy back from the brink.

And I am more committed than ever to taking action so that the American taxpayers who funded this effort aren't asked to clean up another mess they didn't make in the future.

We need to take action to restore Americans' confidence—and their financial security—by reforming a regulatory system that still contains far too many gaps, loopholes, and redundancies.

The 20th century regulatory structure has been outpaced by 21st century innovations in the financial services industry, and if we don't fix it, we could be right back where we were a year ago, facing a dreadful choice between a massive outlay of taxpayer dollars or an unimaginable economic disaster.

I look forward to working with my colleagues on this Committee and in both parties to make sure that doesn't happen.

PREPARED STATEMENT OF SENATOR SHERROD BROWN

One year ago, the American economy was teetering on the verge of wholesale collapse. Credit had dried up for businesses, financial behemoths such as Lehman Brothers and Bear Stearns vanished, insurance giant AIG needed immediate rescue, and Fannie Mae and Freddie Mac imploded.

Congress and the President had no choice but to act quickly to stabilize the financial system. We did, and the Troubled Asset Relief Program (TARP) was the result.

We enacted TARP legislation not only to stabilize the financial system but also to preserve homeownership, promote jobs, and generate economic growth. Now that we are nearing the 1-year anniversary of TARP's creation, we are taking a look at whether TARP has worked.

I agree with those who say TARP has staved off an even bigger financial catastrophe—a number of the big banks that have received TARP funds are starting to reap profits and have even begun to pay the Government back.

However, TARP has not been a success for everyone. Before we pop the cork on the champagne, we need to consider what TARP has done for jobs, manufacturing, and the foreclosure rate.

Unemployment is still way too high. In Ohio the July unemployment rate was 10.8 percent, a full percentage point higher than the national average. That represents 641,000 people who will need unemployment benefits and other services just to make ends meet.

Small and medium-sized businesses in my home State of Ohio continue to struggle mightily to get access to credit.

Although the rate of foreclosures appears to be slowing down nationwide, there are still too many families losing their homes. According to RealtyTrac, in August 11,368 Ohio homes were in some stage of the foreclosure process. I applaud the Administration for creating the Home Affordable Modification Program, but we must work to improve it. Too many borrowers and housing counselors complain about administrative hurdles and delays in processing applications.

TARP has certainly staved off an even more damaging recession, but we have much more work to do to stabilize and strengthen our economy. And we need to do it now.

PREPARED STATEMENT OF HERBERT M. ALLISON, JR.

ASSISTANT SECRETARY FOR FINANCIAL STABILITY (TARP), DEPARTMENT OF THE TREASURY

SEPTEMBER 24, 2009

Chairman Dodd, Ranking Member Shelby, and Members of the Committee, thank you for the opportunity to testify today. As we approach the 1-year anniversary of the Troubled Asset Relief Program or TARP, I welcome this chance to update you about the progress we have made in restoring our financial stability.

A year ago, we were in the midst of one of the worst periods in our financial history. Fannie Mae and Freddie Mac were taken into Federal conservatorship; Lehman Brothers went bankrupt and AIG nearly followed; Wachovia, Washington Mutual, and Merrill Lynch were sold in distress; and weakness at a prominent mutual fund sparked a dangerous "run" on money market mutual funds. Credit markets froze as banks refused to lend, even to one another. Immediate, strong action was needed to avoid a complete meltdown of the system.

On October 3, 2008, Congress rose to this challenge by passing the Emergency Economic Stabilization Act of 2008. With the leadership in particular of many of you on this Committee, Congress recognized the need to take difficult but necessary action and gave the Treasury Department unprecedented authority to stabilize the U.S. economy by creating TARP.

Policy interventions executed last Fall by the Treasury Department and the Federal banking regulators, succeeded in achieving the critical, but narrow objective of preventing a catastrophic collapse of our financial system. But when President Obama took office, the financial system remained extremely fragile and the Administration faced a rapidly evolving set of grave challenges.

In January 2009, what we faced was no longer just a financial crisis; it was a full-blown economic crisis. In January alone, 741,000 Americans lost their jobs, the largest single month decline in 60 years. Home foreclosures were increasing at a rapid rate. Businesses and families were struggling to find credit. It was feared that those banks that remained standing had too little capital and too much exposure to risky assets. Secondary markets for credit had essentially come to a halt; and liquidity in a broader range of securities markets had fallen sharply. In a matter of 3 months, American families had lost $5 trillion in household wealth.

In short, the economy was in a free fall and there was increasing concern we were headed toward a second Great Depression.

The Obama administration confronted this situation by taking forceful action on several fronts. Again, with the leadership of many of you on this Committee, a comprehensive strategy was put in place to stabilize the financial system and the housing market, to stimulate economic activity, and to provide help to those in most

need. And as a result, we have stepped back from the brink. We still have a long way to go before true recovery takes hold, but we are now pointed in the right direction.

TARP has been vital to our achievements to date, and it will continue to be an important part of our recovery. Today, I want to discuss what Treasury has done under TARP and how we have measured our success or failure. I also want to discuss what we still need to do, because our situation requires continued action and vigilance. The recovery has just begun, the financial system remains fragile, and the credit markets are not fully functioning. And with unemployment still unacceptably high, home foreclosures still rising, and many Americans still suffering through no fault of their own, we still have work to do.

Overview

Although much remains to be done, we believe that TARP has worked to stabilize the financial system and lay the foundation for economic recovery. Treasury used its authority under EESA to make investments that have helped to stabilize our system, restore confidence in our banks and restart markets that are critical to financing American households and businesses. In addition, we have begun to stabilize the housing market and help people avoid foreclosure. These efforts are part of the Administration's Financial Stability Plan, designed to recapitalize our financial system with as much private capital and as little taxpayer funding as possible.

EESA authorized $700 billion for TARP. As of September 21, 2009, Treasury has announced plans to provide $644 billion for specific TARP programs. Of that amount, we have entered into commitments of $444 billion, and we have disbursed $365 billion.

A large part of the total activity to date occurred last fall under the Capital Purchase Program (CPP) following the adoption of EESA in October 2008. The more recent commitments include amounts extended under the Obama administration's Financial Stability Plan.

Let me highlight some of the major support provided under TARP.

Capital Purchase Program

CPP was the first of the programs implemented under TARP. Through CPP, Treasury has provided capital to 679 financial institutions across 48 States. This program was designed for financial institutions of all sizes and has invested in over 300 small and community banks. CPP has been essential to stabilizing our financial system. The capital provided has enabled banks to absorb losses from bad assets while continuing to lend to consumers and businesses. To encourage continued participation by small and community banks, the application window for CPP was reopened on May 13, 2009, for banks with fewer than $500 million in assets. In addition, we continue to invest in smaller banks on a regular basis.

In addition to the CPP, Treasury also worked with the Federal banking regulators to develop a plan for "stress tests." This was a comprehensive, forward-looking assessment of the capital held by the largest 19 U.S. banks. The design of the tests and their results were made public, a highly unusual step that was taken because of the unprecedented need to reduce uncertainty and restore confidence. We also announced that we would be prepared to provide additional capital through the Capital Assistance Program.

Since the stress test results were released in early May, banks of all sizes have raised over $80 billion in common equity and $40 billion in nonguaranteed debt. Importantly, that capital raising has enabled more than 30 banks to repay the TARP investments made by Treasury. We have received over $70 billion in principal repayments, and over $6.5 billion in dividends, interest, and fees from CPP participants.

In addition, several banks have repurchased the warrants issued to Treasury in connection with repaying the TARP investments. Treasury obtained warrants with each investment in order to provide the taxpayer with an opportunity to participate in the potential recovery of these financial institutions. To date we have received almost $3 billion from the repurchase of warrants. The rate of return to the taxpayer on the investments made in all those institutions that have fully repaid the Treasury and repurchased the warrants to date is approximately 17 percent. I should note that our returns to date are not necessarily an indication of what our returns will be overall for this program, but this is a good beginning.

When President Obama took office, the Treasury had outstanding commitments to banks under the CPP and other programs of $239 billion. Since mid-January, we have invested $11 billion in more than 350 institutions, while receiving the repayments noted above of $70 billion. Thus, since January, we have reduced the size of the Treasury's investments in the banking system by $59 billion to $180 billion. We

now estimate that banks will repay another $50 billion over the next 12 to 18 months.

Public–Private Investment Partnership

To help clean up the balance sheets of major financial institutions and restore liquidity to key markets for financial assets, we proposed the creation of a public–private investment program for the purchasing of legacy loans and securities. Since the announcement of the program, nonagency mortgage-backed securities have gone up substantially in price. Prime fixed rate securities issued in 2006 that traded as low as $60 in March have increased in value by over 40 percent as additional liquidity has come back to the markets. That improvement in financial market conditions has created the positive backdrop to enable us to proceed with the program at a scale smaller than initially envisioned.

Following a comprehensive application, evaluation, and selection process, during which Treasury received over 100 unique applications to participate in PPIP, in July, Treasury prequalified nine fund managers to participate in the program. These managers have extensive experience with legacy assets. In addition, these firms have committed to utilizing small business and minority-owned firms in this process.

Treasury expects to provide approximately $30 billion in equity and debt financing to special purpose entities formed by the fund managers in the initial phase of PPIP. Initial closings are currently scheduled for the end of this month.

Due to the possibility of actual or potential conflicts of interest inherent in any market-based investment program, Treasury has worked very closely with the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) to develop a robust conflicts and compliance process.

Term Asset-Backed Securities Loan Facility

One of the many lessons of this crisis is the importance of a properly functioning securitization market to the availability of credit for consumers and small businesses. The Term Asset-Backed Securities Loan Facility (TALF) has been a successful effort to help restart those markets after the crisis. Opened in March 2009, TALF is a lending facility operated by the Federal Reserve Bank of New York (FRBNY) under which FRBNY provides term nonrecourse loans collateralized by certain types of AAA-rated asset-backed securities (ABS). Treasury has consulted in the design of the program and will provide up to $20 billion for the purchase of ABS in the event of a default.

I am pleased to report that, since March, a total of $79.6 billion of new TALF-eligible ABS has been brought to market, of which $46.5 billion was funded using TALF loans. This aid to the securitization market has had a decided impact on liquidity, spreads, and the availability of consumer and small business credit.

Making Home Affordable Program

A central part of the President's Financial Stability Plan is our effort to stabilize the housing market. Announced on February 18, the Making Home Affordable Program (MHA) offers assistance to millions of homeowners by reducing mortgage payments and preventing avoidable foreclosures. MHA gives homeowners the opportunity to modify their mortgages as well as an opportunity to refinance GSE loans, which in each case can lower monthly payments and enable homeowners to avoid foreclosure.

The mortgage modification program is known as Home Affordable Modification Program, or HAMP, and is funded through TARP and the Housing and Economic Recovery Act of 2008 (HERA). It is designed to provide assistance to up to 3–4 million eligible homeowners before the end of 2012. We have signed contracts with 57 servicers, including the five largest. Between loans covered by these servicers and loans owned or guaranteed by the GSEs, more than 85 percent of all mortgage loans in the country are now covered by the program. As of September 9, more than 360,000 trial modifications are underway and 570,000 trial modifications have been offered under this program. We have frequent contact with the servicers to discuss ways of increasing borrower participation in HAMP. At a meeting with participating servicers on July 28, servicers committed to reaching a cumulative target of 500,000 trial modifications by November 1, 2009. I am pleased to report that we are on pace to meet this goal, potentially even ahead of schedule. The participating servicers also agreed to work with Treasury to implement actions designed to improve program effectiveness, including the streamlining of application documents. In addition, we have focused on transparency and servicer accountability by publicly reporting servicer-specific results on a monthly basis. Treasury is also working to establish specific operational metrics to measure the performance of each servicer. We will be meeting with the servicers again next month to review progress and address on-

going concerns. Treasury realizes that the housing market is vital to the ongoing economic recovery and that many people are still in dire circumstances. We will continue to work to make sure that these programs provide relief to those affected.

Automotive Industry Financing Program

The Automotive Industry Financing Program (AIFP) was developed in December 2008 to prevent a significant disruption of the U.S. automotive industry, because of the risks such a disruption posed to the financial system and the economy as a whole. To date, Treasury has provided approximately $76 billion in loans and equity investments to General Motors, Chrysler and their respective financing entities. After the previous Administration provided initial assistance last year, the Obama Administration required the companies to develop long-term reorganization and viability plans before Treasury would provide additional assistance. Moreover, Treasury rejected the initial plans proposed by the automakers and required the companies to develop plans to become leaner and more efficient. We believed this was the only way the companies could become more competitive and the only way to protect the taxpayers' investment. The assets of both GM and Chrysler were sold to newly created entities through the bankruptcy courts in exceptionally fast and efficient proceedings. The new companies are now leaner and more efficient and poised to help further the ongoing economic recovery and the competitiveness of the American automotive industry.

Treasury's Role as Shareholder

As a result of the financial crisis, the Government has had to intervene in the economy in unprecedented ways, and I know many people have questions concerning the role of the Government as a shareholder in private companies. The Obama administration has given this subject careful thought, and I would like to explain the fundamental principles that govern our actions as a shareholder.

First, the U.S. Government is a shareholder reluctantly and out of necessity. We intend to dispose of our interests as soon as practicable, with the dual goals of achieving financial stability and protecting the interests of the taxpayers.

Second, we do not intend to be involved in the day-to-day management of any company. Our responsibility is to protect the taxpayers' investment. Government involvement in the day-to-day management of a company might actually reduce the value of these investments, impede the ability of the companies to return fully to being privately owned, and frustrate attainment of our broader economic policy goals.

Third, consistent with these goals, we will take a commercial approach to the exercise of our rights as a shareholder. We will vote only on four core matters: board membership; amendments to the charter and by-laws; liquidations, mergers, and other substantial transactions; and significant issuances of common shares.

Daily Concerns

I also want to discuss three concerns that I focus on every day, that are central to our duty to protect the taxpayer. The first is, do we have the proper controls in place to ensure accountability? Second, are we being good stewards of the taxpayers' money? And third, are we communicating what we are doing in a transparent and timely manner?

First, we know that proper controls are critical to protecting the taxpayers' interest. In addition to review by this and other Congressional committees, EESA provides for oversight of TARP by four oversight bodies, and Treasury takes its responsibilities to these oversight bodies very seriously. Treasury personnel spend a significant amount of time meeting and communicating with these four oversight bodies (the Special Inspector General for TARP (SIGTARP), the Congressional Oversight Panel, the Financial Stability Oversight Board and the Government Accountability Office (GAO)), as well as with Congress. I meet weekly with SIGTARP to discuss our current activities and their concerns, and my staff is in constant contact with the SIGTARP staff. Treasury has fully or substantially implemented over 75 percent of the recommendations made by SIGTARP. We have also involved them early in the process of design of a program or investment so that we get the benefit of their suggestions at the outset.

Personnel from the Office of Financial Stability meet regularly with the other oversight bodies as well, and Treasury has given careful consideration to each of their recommendations. The GAO has consistently noted the progress Treasury has made in meeting its recommendations.

In the unusual cases where we have declined to implement a recommendation, we have sought to reach the recommendation's objectives by other means that we consider to be more practical, effective or supportive of achieving financial stability, and

have explained our approach to the oversight bodies. In those unusual situations, we have explained our reasons to the oversight body and to Congress in detail.

In addition, OFS is audited by the GAO and will publish its first set of annual financial statements on November 16th.

Second, we have been both careful and assertive stewards of the taxpayers' money. We do not make an investment unless it complies with the statutory requirements, is necessary to restoring or maintaining financial stability and is made on terms that protect the taxpayer. Since the Obama administration took office, Treasury has provided $144.42 billion in TARP assistance, and has received repayments, dividends, interest and other payments in the amount of $70.56 billion. In the attached report is a chart detailing TARP investments made by month. You will note the general downward trend in the gross amount of capital expended.

Third, as I committed in my confirmation hearing, we have taken many steps to communicate in a fully transparent and timely manner. We have never missed a deadline for a report. As of September 18, 2009, Treasury has published 83 Transaction Reports, 10 Section 105(a) monthly Congressional Reports, 7 Tranche Reports, 3 dividend and interest reports and 2 MHA Program Reports, all of which are posted on our Web site. We have recently completely revised the format of our monthly Section 105(a) report, a copy of which is attached. As you will see, it presents updates on our investments and programs as well as background information in a far clearer, more concise manner. It answers basic questions that many Americans have, such as: how are TARP monies invested?

We have also published a monthly lending survey that contains detailed information on the lending and other activities of over 500 banks that have received TARP funds, as well as separate information for the largest 22 banks. These reports are intended to help the public easily assess the lending and intermediation activities of participating banks. More broadly, they also help answer the question of what banks are doing with their TARP funds. We believe the detailed quantitative information contained in these reports addresses the fundamental concern underlying that question, which is whether TARP has helped restore our banks to health so that they can lend to creditworthy families and businesses. Beginning next month, we will be expanding the report in response to suggestions from SIGTARP for reporting on use of funds.

Additionally, we post program guidelines on our Web site, *www.financialstability.gov,* within 2 business days of any program launch. We also post for public review all obligations made under TARP as well as all contracts with Treasury service providers involved with these programs. We recognize that transparency is paramount when managing taxpayer funds.

Exit Strategy

TARP was designed as an emergency response to a major financial crisis, and I would like to address what Treasury sees as some of the next steps for TARP. Because financial conditions have started to improve, Treasury has already begun the process of exiting from some emergency programs. But how and when we exit will vary by program. For example, as I noted earlier, Treasury has received over $70 billion in principal repayments from CPP participants. Treasury has also almost $3 billion in warrant proceeds from the repurchase of warrants by banks that have already repaid the principal investment. For those banks that have elected not to repurchase their warrants, Treasury intends to begin auctioning those warrants later this year. It will, however, be some time before all CPP participants have fully extinguished their obligations to the taxpayers.

Certain TARP programs have a defined life. For example, new lending under TALF is scheduled to cease in mid-2010, even though Treasury's credit support of the TALF facility will continue for a number of years. Although PPIP is just being launched, the investment period for the fund managers is limited to 3 years.

The Administration has established clear principles to ensure that our investments in the automobile industry and other companies that have received exceptional assistance are limited and temporary. Chrysler Financial has already repaid its assistance, and an initial public offering for GM is expected next year.

At the same time, we must remember that our economic recovery has just begun and significant parts of the financial system remain impaired. Declining prices in the commercial real estate market could put additional pressure on bank balance sheets and capital positions, while continued downward pressure on housing prices could stall a nationwide recovery. In this context, it is prudent to maintain capacity to address new developments. By bolstering confidence, having such capacity may actually reduce the need to use it.

As we look ahead, we must also not forget the lessons we have learned from this period. Reforming our regulatory system in a way that is stronger and better-suited

to manage risk and ensure safety and soundness must be our highest priority. The Administration has proposed a number of measures in this regard that I know you are already considering as you work to address this important issue.

Conclusion

Financial stability is a necessary precondition to the resumption of economic growth. Treasury and other institutions of Government have accomplished a great deal in a short amount of time to achieve this goal. However, we recognize that we have more work ahead of us on both the regulatory reform and economic fronts. TARP, the Office of Financial Stability, and the Office of Domestic Finance have been essential to President Obama's and Secretary Geithner's plans for financial stability and economic recovery.

Ending the financial crisis is not primarily about helping banks, but about restoring the flow of credit to consumers and businesses and alleviating the real hardships that Americans face every day. Healthy and vibrant financial institutions are critical for this, as they are the key sources of a range of financial services that we depend on every day. Without healthy banks, consumers cannot access the credit they need to buy a home, finance an education, manage everyday expenses or make other financial commitments. Small businesses cannot buy the new equipment, raw materials, and inventory that they need to expand. Larger businesses cannot make the continuous adjustments required to function in a changing global marketplace.

It is with these goals in mind that we have created the programs under the TARP and the Financial Stability Plan. As I work with my dedicated colleagues in Treasury on these programs, I will strive to continue to be a prudent investor on behalf of the American people.

Thank you.

Troubled Assets Relief Program

Monthly Progress Report – August 2009

September 10, 2009

This report to Congress is pursuant to Section 105(a)
of the Emergency Economic Stabilization Act of 2008.

Monthly Progress Report – August 2009

Treasury is pleased to present a revised format for our monthly 105(a) Report to Congress. This new format will provide the latest developments on efforts to stabilize the financial system, current status of TARP investments, and background information on all TARP programs.

Section		Page
The Latest – August 2009 Key Developments		2
Where is TARP Money Going?		3
August Program Updates		5
Certification		17
Appendix 1:	Descriptions of TARP Programs	18
	How Treasury Exercises its Voting Rights	31
Appendix 2:	August Financial Statement	33

This report contains summaries of TARP programs and investments. These summaries do not include all the material terms and conditions of such programs and investments. Please see more detailed information available at www.financialstability.gov.

The Latest – August 2009 Key Developments

The **Troubled Assets Relief Program** or **TARP** was established pursuant to the Emergency Economic Stabilization Act of 2008 or EESA. This law was adopted on October 3, 2008 in response to the severe financial crisis facing our country. To carry out its duties under the law, Treasury has developed a number of programs to stabilize our financial system and the housing market. These programs are described in this report. These efforts, together with the American Recovery and Reinvestment Act, help lay the financial foundation for economic recovery.

The following are some key developments that took place in August under these programs:

- The U.S. Treasury received $1.85 billion in dividend, interest and fee payments from all TARP Programs in August 2009
  - Total dividends and interest payments received since inception of TARP through August 31, 2009 is $9.36 billion
- 3 banks repaid $140 million of Treasury investments in August, bringing the total amount of investments repaid to $70.3 billion through August 2009
- Treasury made new investments in 9 banks totaling $129.9 million in August 2009
- 9 new mortgage servicers signed up to participate in the Home Affordable Mortgage Modification Program (HAMP)
  - Approximately 85 percent of residential mortgages are covered by HAMP-participating servicers
- Treasury and the Federal Reserve Board announced the extension of the Term Asset-Backed Securities Loan Facility (TALF)
  - The Federal Reserve will continue to make loans against newly issued asset-backed securities (ABS) and legacy commercial mortgage-backed securities (CMBS) through March 31, 2010 and against newly issued CMBS through June 30, 2010

Where is TARP Money Going?

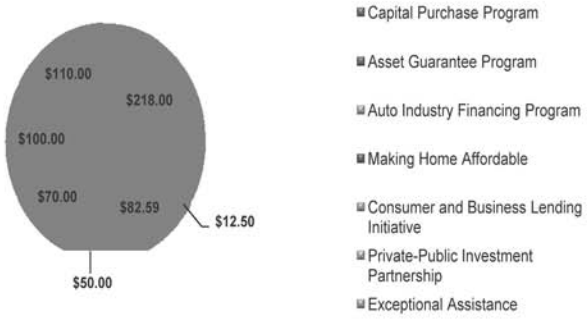
EESA authorized $700 billion for TARP. Treasury has used this authority to make investments that are designed to restore confidence in the strength of our financial institutions, restart markets that are critical to financing American households and businesses, and address the housing market problems.

As of August 31, 2009, Treasury has announced the following uses of TARP funds:

- $644.4 billion has been planned for particular TARP programs, as shown in Figure 1.
  - Of that amount, $443.8 billion has been committed to specific institutions under signed contracts.
  - $365 billion has been paid out by Treasury under those contracts.

Figure 1 shows the planned TARP investments by program as of August 31, 2009. Please see Appendix 1 for a description of the programs listed in the chart.

Figure 1: Planned TARP investments ($ billions) as of August 2009



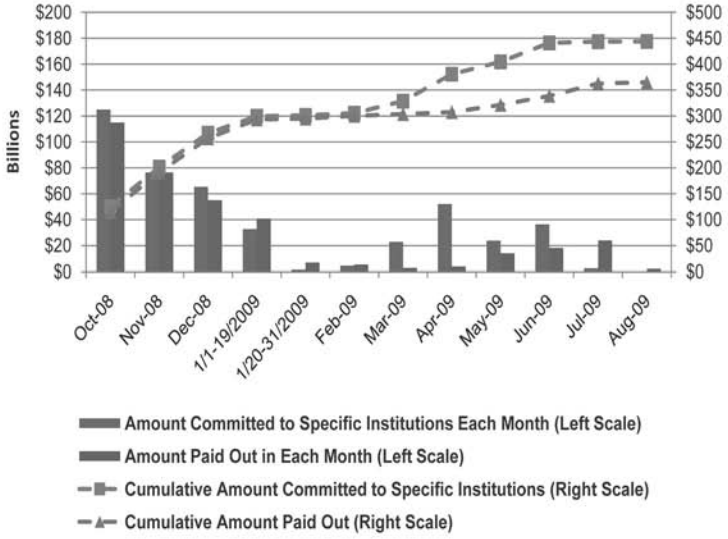
The authority to make investments under EESA expires on December 31, 2009. However, the Secretary of the Treasury may extend the authority through October 3, 2010 upon satisfying certain conditions.

Where is TARP Money Going?

A large part of the total investments to date occurred last fall under the Capital Purchase Program following the adoption of EESA in October 2008. The more recent commitments include amounts extended under the Obama Administration's Financial Stability Plan. This includes funds committed under the Making Home Affordable program, the planned TARP investments in the Public-Private Investment Partnership, and those under the other programs described in this report.

Figure 2 shows the amount of TARP investments by month. It shows both the amount obligated -- or committed for investment -- and the amount disbursed or actually paid out.

Figure 2: Funds committed and paid out under TARP



Taxpayers can track progress on all of the financial stability programs and investments, as well as repayments, on Treasury's website. Specifically, taxpayers can look at investments within 2 days of closing in our TARP transaction reports at www.financialstability.gov. In addition, on November 16th, Treasury will publish audited annual financial statements under Federal financial reporting standards that will provide detailed information on the value of the TARP portfolio.

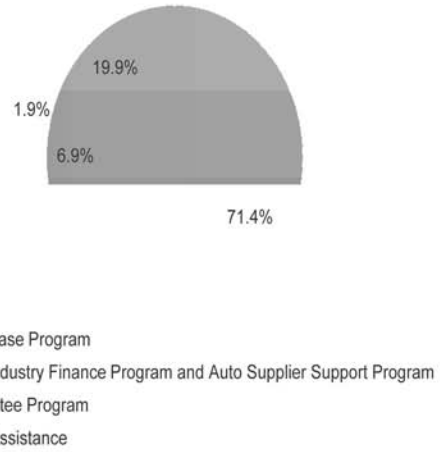
August Program Updates – Dividends and Interest Received

Most of the TARP money has been used to make investments in preferred stock or loans. Treasury receives dividend or interest payments on these investments from the institutions participating in TARP programs. These payments are a return on Treasury's TARP investments.

- In August, Treasury received $1.85 billion in dividends, interest and fees from TARP investments.
- Treasury has received a total of $ 9.36 billion in dividends, interest and fees through August 31, 2009.

Figure 3 shows the allocation of dividends, interest and fees received since inception of TARP by program as of August 31, 2009.

Figure 3: Dividends, interest and fees received by TARP Program



Please see Appendix 1 for a description of the programs listed in the chart above.

Dividend payments are a portion of a company's earnings that are paid to equity investors. Most banks participating in the CPP pay Treasury a cumulative dividend rate of 5 percent per year for the first five years and 9 percent per year thereafter. S-corporation banks pay an **interest rate** of 7.7 percent per year for the first five years and 13.8 percent thereafter. **Preferred shares** (or stock) are a form of ownership in a company. Preferred shares are senior to common stock, but junior to debt.

Treasury's Dividends and Interest Report is available at http://www.financialstability.gov/latest/reportsanddocs.html.

August Program Updates – Capital Purchase Program

A major part of TARP is the **Capital Purchase Program (CPP)**.

Under this program, Treasury invests in banks and other financial institutions to increase their capital. Banks use the CPP money in a number of ways, including shoring up capital, investing in assets, and increasing lending. Treasury continues to accept applications under the CPP from small banks.

Figure 4: CPP Snapshot through August 2009

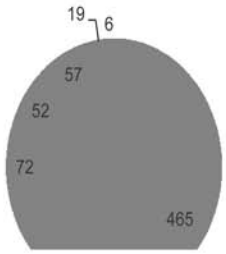
CPP Investments
Amount disbursed in August 2009: **$129.9** million to **9** institutions
Total amount disbursed since October 2008: **$ 204.48** billion
CPP investments repaid since October 2008: **$ 70.31** billion
CPP Banks
Number of institutions that have received CPP investment: **671**
Number of institutions that have repaid CPP investment: **37***
Number of institutions currently participating in CPP: **637***
*Including partial investments/repayments
CPP Facts
Participation across the US:
Banks in **48 states**, the District of Columbia and Puerto Rico
Largest Investment: **$ 25** billion
Smallest Investment: **$ 301,000**

Details on the Capital Purchase Program are available at http://www.financialstability.gov/roadtostability/capitalpurchaseprogram.html.

August Program Updates – Capital Purchase Program

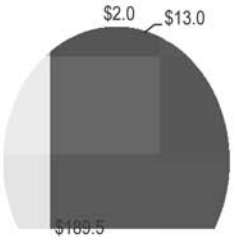
The CPP was available to banks of all sizes. Figures 5 and Figure 6 show the distribution of CPP funds by size of investment as of August 31, 2009. These charts include all 671 banks that have received funds, including those that have repaid the investment.

Figure 5: Number of banks by investment amount



Investment Amount in millions (m) or billions (b)	Number of Banks
Less than $25m	465
$25m - $50m	72
$50m - $100m	52
$100m - $1b	57
$1b - $10b	19
$10b and up	6

Figure 6: Total CPP funds disbursed by investment amount



Investment Amount in millions (m) or billions (b)
Small (CPP investment $12m and less)
Medium (CPP investment $12m-$250m)
Large (CPP investment $250m and up)

Note: The CPP investment amount is determined by the size of the bank. CPP investments are no less than 1% and no greater than 3% (5% for small banks) of the recipient's risk-weighted assets.

August Program Updates – Capital Purchase Program

Treasury receives dividend or interest payments on its TARP investments. Some of the banks that received investments under TARP have repaid Treasury. When a bank repays, it is also required to pay any accrued and unpaid dividends or interest.

Treasury also receives warrants in connection with most of its investments. These are rights to purchase shares of common stock or in some cases other securities. The purpose of warrants is to give the U.S. Treasury the potential to benefit from the "upside" of a bank's recovery. Some banks that have repaid the TARP investment have also repurchased the warrants issued to Treasury.

The chart below shows the amount of dividends, interest and fees, repayments of principal, and warrant proceeds to date:

Figure 7: Cash received through the CPP

	August	Total
Dividends, Interest and Fees:	$1.18 billion	$ 6.68 billion
Repayments of Principal:	$140 million	$ 70.31 billion
Warrant Proceeds*:	$1.17 billion	$ 2.90 billion
Total:	$ 2.49 billion	$ 79.89 billion

* Includes proceeds from the repurchase of shares received through the exercise of warrants.

August Program Updates – Capital Purchase Program

Repurchase of Warrants

When a publicly traded bank repays Treasury for a preferred stock investment, the bank has the right to repurchase its warrants. The warrants do not trade on any market and do not have observable market prices. If the bank wishes to repurchase its warrants, an independent valuation process is used to establish fair market value. If an institution chooses not to repurchase its warrants, Treasury is entitled to sell them. Treasury is currently developing an auction process to sell warrants.

A privately-held bank does not have common stock that trades in the market. Privately held banks that receive CPP funds give Treasury a warrant for additional shares of preferred stock. Treasury immediately exercises the warrant and acquires the preferred shares. Any proceeds from the repurchases of shares acquired from a warrant are included as cash received from sales of warrants in the table on this page.

Figure 8: Cash received from sales of warrants through August 31, 2009

Financial Institution	Price Paid to Treasury (millions)
Alliance Financial Corporation	$ 0.900
American Express Company	$ 340.000
BB&T Corp.	$ 67.010
Berkshire Hills Bancorp, Inc.	$ 1.040
Centra Financial Holdings, Inc.	$ 0.750
First Manitowoc Bancorp, Inc.	$ 0.600
First Niagara Financial Group	$ 2.700
First ULB Corp.	$ 0.245
FirstMerit Corporation	$ 5.025
HF Financial Corp.	$ 0.650
Iberiabank Corporation	$ 1.200
Independent Bank Corp.	$ 2.200
Morgan Stanley	$ 950.000
Northern Trust Corporation	$ 87.000
Old National Bancorp	$ 1.200
SCBT Financial Corporation	$ 1.400
Somerset Hills Bancorp	$ 0.275
State Street Corporation	$ 60.000
Sun Bancorp, Inc.	$ 2.100
The Bank of New York Mellon Corp.	$ 136.000
The Goldman Sachs Group, Inc.	$ 1,100.000
U.S. Bancorp.	$ 139.000
Total Proceeds to Treasury $2.899 billion	

August Program Updates – Bank Lending and Intermediation Surveys

Each month, Treasury asks banks participating in the CPP to provide information about their lending activities and publishes the results in two reports described below. The most recent reports were conducted in June. During this period the economy continued to contract, albeit at a slower pace than earlier in the year. Although there was modest improvement in some economic indicators, the economy remained very weak.

August Monthly Lending and Intermediation Snapshot

This monthly lending report gathers and provides data on the lending activities for the 22 largest financial institutions that received TARP investments under the CPP. In August, Treasury released the following information on June lending:

- Overall outstanding loan balance of the 22 institutions fell 1 percent from May to June 2009.
- New lending by the 22 institutions increased 13 percent from May to June 2009, indicating approximately $312 billion in new loans made.
- Surveyed participants also reported that loan demand in the commercial real estate market and the commercial and industrial sectors was well below normal levels.

August CPP Monthly Lending Report

This monthly lending report provides data on consumer lending, commercial lending, and total lending for all CPP participants. As shown in the table below, from May to June, total average consumer loans fell by 0.80%, total average commercial loans fell by 1.02%, and total loans outstanding fell by 0.90%.

Figure 9: Loans outstanding for all CPP Recipients as of June 30, 2009

Date	Number of Respondents	Total Average Consumer Loans	Total Average Commercial Loans	Total Average Total Loans
2/28/2009	521	$2,898,031	$2,380,692	$5,278,662
3/31/2009	553	$2,885,646	$2,353,047	$5,239,745
4/30/2009	540	$2,852,671	$2,329,547	$5,182,212
5/31/2009	580	$2,840,877	$2,337,524	$5,178,418
5/31/2009 (Adjusted)	546	$2,808,914	$2,291,026	$5,099,941
6/30/2009	559	$2,797,169	$2,362,892	$5,160,061
6/30/2009 (Adjusted)	546	$2,786,351	$2,267,735	$5,054,086
Change (May Adjusted to June Adjusted)		***-0.80%***	***-1.02%***	***-0.90%***

August Program Updates – Bank Lending and Intermediation Surveys

Note: In Figure 9 above, the "May Adjusted" and "June Adjusted" data include balances from only those institutions that submitted both May 2009 and June 2009 CPP Monthly Lending Reports.

Details on the Bank Lending Surveys are available at http://www.financialstability.gov/impact/surveys.htm.

The Quarterly Capital Purchase Program Report

To understand better how CPP and other stabilization initiatives launched by the Federal Government may have affected financial institutions and their activities, an interagency group was convened to determine and conduct appropriate analyses. This interagency group consists of representatives from Treasury, the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

This interagency group has undertaken to produce a summary of the activities of institutions receiving TARP capital. In August, Treasury released the Quarterly Analysis of Institutions in the Capital Purchase Program for the first quarter of 2009 (2009 Q1).

Details on the Quarterly Capital Purchase Program Reports are available at http://www.financialstability.gov/impact/CPPreport.html.

August Program Update – Home Affordable Modification Program

The **Home Affordable Modification Program** (HAMP) provides incentives for mortgage servicers, borrowers and investors to modify existing mortgages to make them more affordable for homeowners. Each servicer reviews its loans to identify eligible borrowers and then offers eligible borrowers a trial modification. If the borrower makes three consecutive monthly payments at the modified rate, and submits required documentation, the modification becomes permanent.

Figure 10: Home Affordable Modification Program (HAMP) Snapshot through August 2009

Number of Requests for Financial Information Sent to Borrowers (Cumulative)	1,883,108
Number of Trial Period Plan Offers Extended to Borrowers (Cumulative)	571,354
Number of Trial Modification Started (Cumulative)	360,135

HAMP Participating Servicers

- Approximately 85% of residential mortgages are covered by servicers who are participating in HAMP.
- As of August 31, 2009, 47 servicers have signed servicer participation agreements to modify loans under HAMP. These participants service loans owned or guaranteed by Fannie Mae or Freddie Mac, owned by the servicer, or serviced on behalf of other investors.

Details on the Home Affordable Modification Program are available at http://www.financialstability.gov/roadtostability/homeowner.html

More information on the Making Home Affordable programs is available on the website http://www.makinghomeaffordable.gov

August Program Updates – Home Affordable Modification Program

The HAMP is well underway. Since inception of the program, the number of trial plans offered to borrowers has increased each week, as has the number of trial modifications started.

Figure 11: HAMP Trial Plans Offered to Borrowers (Cumulative)

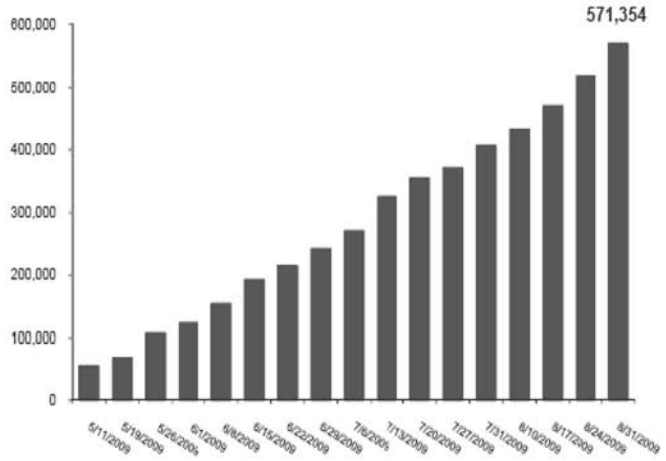
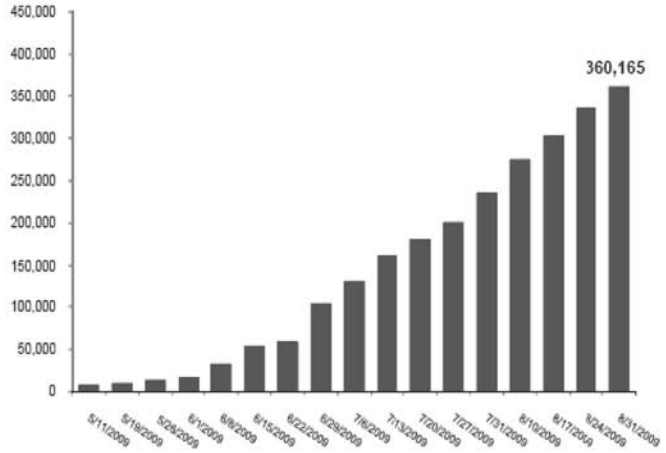


Figure 12: HAMP Trial Modifications (Cumulative)

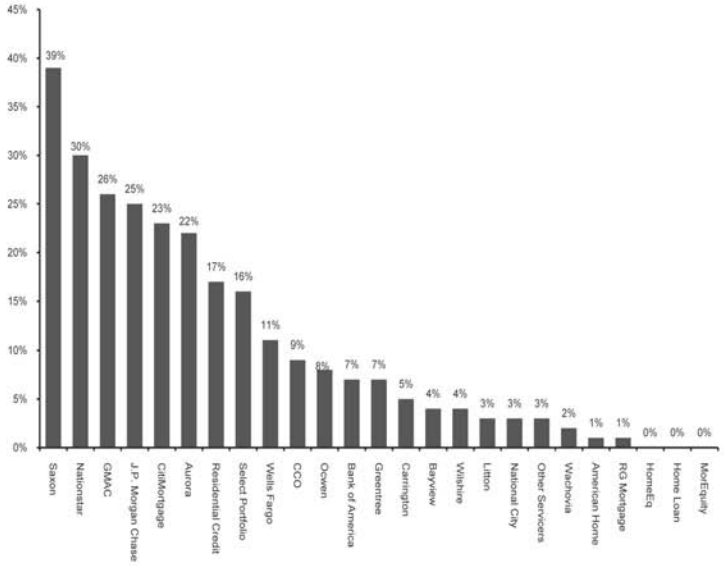


August Program Update – Home Affordable Modification Program

Figure 13 shows individual mortgage servicers' progress in making modifications under HAMP. For each servicer, the chart shows the percentage of trial modifications started as a percentage of the servicer's estimated pool of HAMP-eligible mortgages that are at least 60 days delinquent.

Servicers have joined the program at different times. Those that joined later tend to have lower percentages of trial modifications started than servicers that joined earlier.

Figure 13: HAMP Mortgage Servicer Progress through August



For more information see
http://www.financialstability.gov/docs/MHA-Public_090909.pdf

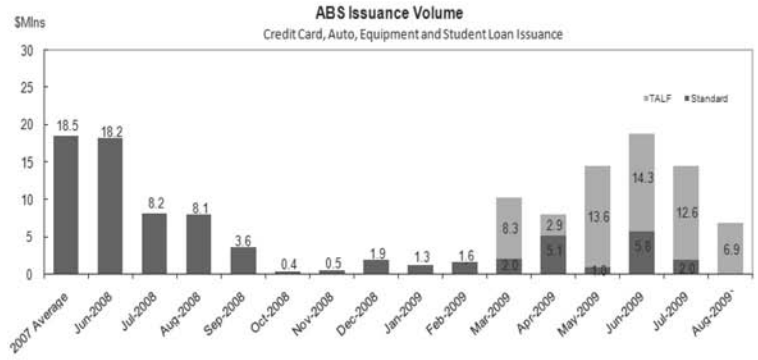
August Program Updates – Term Asset-Backed Securities Loan Facility

Under the **Term Asset-Backed Securities Loan Facility (TALF)**, the Federal Reserve Bank of New York makes loans to buyers of asset-backed securities in order to stimulate consumer and business lending by the issuers of those securities. Treasury uses TARP funds to provide credit support for the TALF.

The asset-backed securities (ABS) that are eligible for the TALF must be backed by new or recently originated auto loans, student loans, credit card loans, small business loans, or commercial mortgage loans.

The markets for asset backed securities are an important source of credit for consumers and businesses. These markets essentially stopped functioning during the financial crisis. The purpose of TALF is to help restart these markets and help consumers and businesses obtain credit. Since the launch of TALF in March 2009, issuance of ABS has increased, as shown by Figure 14 below.

Figure 14: Total Consumer ABS Issuance



Source: Markets Room, U.S. Treasury Department (08/31/09)

Details on TALF are available at
http://www.financialstability.gov/roadtostability/lendinginitiative.html

August Program Updates – Term Asset-Backed Securities Loan Facility

TALF Extension

Conditions in financial markets have improved considerably in recent months. Nonetheless, the markets for ABS backed by consumer and business loans and for those backed by mortgages on commercial properties are still not functioning normally and seem likely to remain unstable for some time.

The Federal Reserve had previously authorized using the TALF to make loans through December 31, 2009. To promote the flow of credit to businesses and households and to facilitate the financing of commercial properties, the Federal Reserve announced on August 17, 2009 that TALF will continue to make loans against newly issued ABS and previously issued CMBS through March 31, 2010. In addition, TALF will make loans against newly issued CMBS through June 30, 2010.

For more information see
http://www.federalreserve.gov/newsevents/press/monetary/20090817a.htm

Certification

As Assistant Secretary for Financial Stability at the United States Department of Treasury, I am the official with delegated authority to approve purchases of troubled assets under the Troubled Assets Relief Program. I certify to the Congress that each decision by my office to approve purchases of troubled assets during this reporting period was based on the office's evaluation of the facts and circumstances of each proposed investment, including recommendations from regulators, in order to promote financial stability and the other purposes of the Emergency Economic Stabilization Act of 2008.

Herbert M. Allison, Jr.
Assistant Secretary
Office of Financial Stability

Appendix

Appendix 1	Page
Description of TARP Programs:	
Capital Purchase Program	19
Exceptional Assistance	20
Asset Guarantee Program	21
Automotive Industry Finance Program	23
Consumer and Business Lending Initiative (TALF & Small Business)	26
Public-Private Investment Program	27
Making Home Affordable	29
SCAP and CAP	30
How Treasury Exercises its Voting Rights	31

Appendix 2	Page
August Financial Statement	33

Description of TARP Programs – Capital Purchase Program

What is the CPP?

- Treasury created the Capital Purchase Program (CPP) in October 2008 to stabilize the financial system by providing capital to viable banks of all sizes throughout the nation. With a strengthened capital base, banks have an increased capacity to lend to U.S. businesses and consumers and to support the U.S. economy.
- Across the country, many banks are fundamentally sound, but hesitant to lend. During this unprecedented crisis, banks and financial institutions felt the strain of the troubled market conditions, which had suddenly and dramatically impaired their capital. The level of confidence between banks and other financial institutions was also low, so they were unwilling to lend to each other.
- Restoring capital and confidence is essential to allowing the financial system to work effectively and efficiently.

How does the CPP work?

- Through the CPP, Treasury makes investments in banks, increasing their capital and enabling them to continue lending to businesses and consumers and otherwise serving their customers.
- Treasury purchases senior preferred shares and other interests from qualifying U.S.-controlled banks, savings associations, and other financial institutions. Treasury also receives warrants to purchase common shares or other securities from the banks.
- Banks use the CPP money in a number of ways, including shoring up capital, investing in assets, and increasing lending.
- Banks participating in the CPP pay Treasury dividends on the preferred shares at a rate of five percent per year for the first five years following Treasury's investment and at a rate of nine percent per year thereafter.
- Banks may repay Treasury under the conditions established in the purchase agreements as amended by the American Recovery and Reinvestment Act. Treasury also has the right to sell the securities. The repayment price is equal to what Treasury paid for the shares, plus any unpaid dividends.
- When a publicly-traded bank repays Treasury for the preferred stock investment, the bank has the right to repurchase its warrants. The warrants do not trade on any market and do not have observable market prices. If the bank wishes to repurchase warrants, an independent valuation process is used to establish fair market value. If an institution chooses not to repurchase the warrants, Treasury is entitled to sell the warrants. Treasury is currently developing a process to auction these warrants.

Description of TARP Programs – Exceptional Assistance

Pursuant to EESA, Treasury has provided additional assistance on a case-by-case basis in order to stabilize institutions that were considered systemically significant to prevent broader disruption of financial markets. Treasury has provided this assistance by purchasing preferred shares in the institutions. As part of those transactions Treasury has also received warrants to purchase common shares in the institutions. As of August 31, 2009, assistance under these programs had been provided to:

Exceptional Assistance Programs:

American International Group (AIG)

In November 2008, Treasury purchased $40 billion in preferred shares from AIG. In April 2009, it also created an equity capital facility, under which AIG may draw up to $29.8 billion as needed in exchange for issuing additional preferred stock to Treasury. As of August 31, 2009, AIG has drawn $3.21 billion from the facility. The preferred stock pays a dividend of 10 percent per year. The Federal Reserve Bank of New York (FRBNY) also provided loans to AIG. In connection with such loans, the FRBNY received convertible preferred shares representing approximately 79.8% of the current voting power of the AIG common shares. These preferred shares were deposited in a trust, which exists for the benefit of the U.S. taxpayers.

Targeted Investment Program (TIP)

Under the TIP, Treasury purchased $20 billion in preferred stock from Citigroup, Inc. and $20 billion in preferred stock from Bank of America Corporation. Both preferred stock agreements pay a dividend of 8 percent per annum. These investments were in addition to CPP investments in these institutions. As part of an exchange offer designed to strengthen Citigroup's capital, Treasury recently exchanged all its preferred shares in Citigroup for a combination of common shares and trust preferred securities.

Asset Guarantee Program (AGP)

Under the AGP, Treasury supports the value of certain assets held by qualifying financial institutions, by helping them absorb unexpectedly large losses on certain assets. The program was designed for financial institutions whose failure could harm the financial system and has been used in conjunction with other forms of exceptional assistance.

How does AGP work?

- The pool of covered assets is proposed by the financial institution in consultation with federal regulators and Treasury, and then Treasury applies certain credit tests and asset filters in order to determine the final pool of covered assets.

- As compensation for its guarantee, Treasury collects a premium in the form of preferred stock, warrants, or other form approved by Treasury.

- As required by EESA, an actuarial analysis is used to ensure that the expected value of the premium is no less that the expected value of the losses to TARP from the guarantee. The United States government also provides a set of asset management guidelines that the institution must follow with respect to the guaranteed pool.

Who Has Received Assistance Under AGP?

Citigroup

- Treasury has guaranteed up to $5 billion of potential losses incurred on a $301 billion pool of loans, mortgage-backed securities, and other financial assets held by Citigroup. The Federal Reserve and the FDIC are also parties to this arrangement. In consideration for the guarantee, Treasury received $4.03 billion in preferred securities that pay a dividend of 8 percent per annum. Treasury also received a warrant to purchase approximately 66 million shares of common stock at a strike price of $10.61 per share.

- As part of the exchange offer noted earlier, Treasury recently exchanged preferred shares received under the AGP program for an equivalent amount of trust preferred securities paying interest at the same rate.

- Treasury does not become obligated to pay on its guaranty unless and until Citigroup has absorbed $39.5 billion of losses on the covered pool. Treasury would then cover 90% of all losses on the covered pool, up to a maximum of $5 billion.

Description of TARP Programs – Asset Guarantee Program

Bank of America

- In January 2009, Treasury, the Federal Reserve and the FDIC agreed to share potential losses on a $118 billion pool of financial instruments owned by Bank of America, consisting of securities backed by residential and commercial real estate loans and corporate debt and derivative transactions that reference such securities, loans and associated hedges.

- Bank of America agreed to absorb all eligible losses in the pool up to $10 billion. Treasury and the FDIC agreed to share eligible losses in the pool in excess of that amount, up to $10 billion, with Treasury's share capped at $7.5 billion. All further losses were to be shared 90% by the Federal Reserve and 10% by Bank of America.

- Bank of America has stated that it does not intend to use the guarantee and no final documentation has been entered into.

Description of TARP Programs – Automotive Industry Financing Program

What is the AIFP?

The **Automotive Industry Financing Program (AIFP)** was developed in December 2008 to prevent a significant disruption of the U.S. automotive industry, because the potential for such a disruption posed a systemic risk to financial market stability and would have had a negative effect on the economy. AIFP loans have helped to enable General Motors and Chrysler to go through orderly bankruptcies and emerge as more viable auto manufacturing companies.

In the related **Auto Supplier Support Program (ASSP)**, Treasury provides loans to ensure that auto suppliers receive compensation for their services and products, regardless of the condition of the auto companies that purchase their products.

How does the AIFP work?

- Treasury has provided approximately $76 billion in loans and equity investments to General Motors, GMAC, Chrysler, and Chrysler Financial.

- Short-term funding was initially provided to GM and Chrysler on the condition that they develop plans to achieve long-term viability. In cooperation with the Administration, GM and Chrysler eventually developed satisfactory viability plans and underwent speedy restructurings: Chrysler's business was restructured through the bankruptcy process in 42 days, and GM's bankruptcy restructuring process lasted 40 days. Treasury provided additional assistance during the respective periods.

- The terms of the assistance impose a number of restrictions on the recipients. Among other things, they must adhere to rigorous executive compensation standards and other measures to protect the taxpayer's interests, including limits on the institution's expenditures and other corporate governance requirements.

See the next pages to learn how AIFP has helped each participating company.

Description of TARP Programs – Automotive Industry Financing Program

Chrysler

On January 2, 2009, Treasury loaned $4 billion to Chrysler to give it time to implement a viable restructuring plan. On March 30, the Administration determined that the business plan submitted by Chrysler failed to demonstrate viability and announced that in order for Chrysler to receive additional taxpayer funds, it needed to find a partner with whom it could establish a successful alliance. Chrysler made the determination that forming an alliance with Fiat was the best course of action for its stakeholders.

Treasury continued to support Chrysler as it formed an alliance with Fiat. In connection with Chrysler's bankruptcy proceedings filed on April 30, 2009, Treasury provided an additional $1.9 billion under a debtor-in-possession financing agreement to assist Chrysler in an orderly restructuring. On June 10, 2009, pursuant to a court-approved order, substantially all of Chrysler's assets were sold to the newly formed entity, Chrysler Group LLC (New Chrysler). Treasury committed to loan $6.6 billion to New Chrysler in working capital funding, and New Chrysler has drawn $4.6 billion of this amount.

As of August 31, 2009, Treasury owned 9.9% of the equity in New Chrysler, and was owed $5.1 billion of debt from New Chrysler. The original loans to Chrysler remain outstanding, but are reduced by $500 million of debt that was assumed by New Chrysler. Current equity ownership in New Chrysler is as follows: the Chrysler Voluntary Employee Benefit Association (VEBA) (67.7%), Fiat (20%), Treasury (9.9%) and the Government of Canada (2.5%).

General Motors

On December 31, 2008, Treasury agreed to make loans of $13.4 billion to General Motors Corporation to fund working capital. Under the loan agreement, GM was also required to implement a viable restructuring plan by March 30. The first plan GM submitted failed to establish a credible path to viability, and the deadline was extended to June 1. Treasury loaned an additional $6 billion to fund GM during this period. To achieve an orderly restructuring, GM filed bankruptcy proceedings on June 1, 2009. Treasury provided $30.1 billion under a debtor-in-possession financing agreement to assist GM through the restructuring period. The new entity, General Motors Company (New GM), began operating on July 10, 2009, following its purchase of most of the assets of the Old GM.

When the sale to New GM was completed on July 10, Treasury converted most of its loans to 60.8% of the common equity in the New GM and $2.1 billion in preferred stock. Treasury continues to hold loans in the amount of $7.1 billion. The New GM currently has the following ownership: Treasury (60.8%), GM Voluntary Employee Benefit Association (VEBA) (17.5%), the Canadian Government (11.7%), and Old GM's unsecured bondholders (10%).

Description of TARP Programs – Automotive Industry Financing Program

Chrysler Financial

On January 16, 2009, Treasury announced that it would lend up to $1.5 billion to a special purpose vehicle created by Chrysler Financial to enable Chrysler Financial to finance the purchase of Chrysler vehicles by consumers. To satisfy the EESA warrant requirement, the Chrysler Financial special purpose vehicle issued additional notes entitling Treasury to an amount equal to 5 percent of the maximum loan amount. Twenty percent of those notes vested upon the closing of the transaction, and additional notes were to vest on each anniversary of the transaction closing date. The loan was fully drawn by April 9, 2009. On July 14, 2009, Chrysler Financial fully repaid the loan, including the vested additional notes and interest.

GMAC

On December 29, 2008, Treasury purchased $5 billion in senior preferred equity from GMAC LLC, and received an additional $250 million in preferred shares through warrants that Treasury exercised at closing. At the same time, Treasury also agreed to lend up to $1 billion of TARP funds to GM (one of GMAC's owners), to enable GM to purchase additional ownership interests in GMAC's rights offering. GM drew $884 million under that commitment on January 16, 2009. On May 21, 2009, Treasury purchased $7.5 billion more of preferred shares from GMAC and received warrants that Treasury exercised at closing for an additional $375 million in preferred shares.

On May 29, 2009, Treasury exercised its option to exchange the $884 million loan it had made to GM in January 2009 for about 35 percent of the common membership interests in GMAC. As of August 31, 2009, Treasury owns $13.1 billion in preferred shares in GMAC, through purchases and the exercise of warrants, in addition to 35% of the common equity in GMAC. At the option of the Federal Reserve, it is possible that additional preferred shares could be converted in the future to permit GMAC to increase its tangible common capital ratio; if all of such preferred shares were converted, Treasury would own up to a maximum of a 79.8% voting interest in GMAC.

Description of TARP Programs – Consumer and Business Lending Initiative (TALF and Small Business)

What is the TALF?

The **Term Asset-Backed Securities Loan Facility (TALF)** is a lending facility operated by the Federal Reserve Bank of New York (FRBNY). The FRBNY provides term non-recourse loans collateralized by AAA-rated asset-backed securities (ABS) backed by new or recently originated auto loans, student loans, credit card loans, small business loans, and commercial mortgage loans, including legacy commercial mortgage loans. Treasury provides credit support for TALF as part of Treasury's Consumer and Business Lending Initiative.

How does the TALF work?

- Once each month investors can request the FRBNY to make loans secured by eligible consumer or small business ABS. Assuming that the borrower and the ABS it plans to pledge as collateral meet Federal Reserve requirements, the investor will receive the requested funding. Most borrowers use the loan, together with their own funds, to purchase the ABS that serves as collateral for the TALF loans.

- If the borrower does not repay the loan, the FRBNY will enforce its rights in the collateral and sell the collateral to a special purpose vehicle (SPV) established specifically for the purpose of purchasing and managing such assets. The SPV is funded, in part, by a $20 billion subordinated loan commitment from Treasury.

- The first TALF subscription took place on March 19, 2009 and there have been five subsequent monthly ABS subscriptions to date. A total of $53.8 billion of new TALF-eligible ABS has been brought to market. Of that amount, approximately 62% or $33.1 billion was financed using TALF loans.

- On August 17, 2009, Treasury and the FRBNY announced the extension of the TALF for newly-issued ABS and legacy commercial mortgage backed securities (CMBS) through March 31, 2010. In addition, TALF will make loans against newly issued CMBS through June 30, 2010. There were no further additions to the types of collateral eligible for the TALF.

What is the Small Business and Community Lending Initiative?

- Under the Small Business and Community Lending Initiative to ensure that credit flows to entrepreneurs and small business owners, Treasury is taking measures to complement the Administration's actions to help small businesses recover and grow, including several tax cuts under the American Recovery and Reinvestment Act and a temporary increase in the Small Business Administration (SBA) guarantee for certain types of loans. Treasury has announced a program to purchase in the secondary market securities that are backed by the SBA-guaranteed portions of loans originated under section 7(a) of the Small Business Act.

Description of TARP Programs – Public-Private Investment Program

What is the Public-Private Investment Program?

The Legacy Securities **Public-Private Investment Program (S-PPIP)** is intended to address the problem of legacy real estate-related assets, support market functioning and facilitate price discovery in the market for mortgage-backed securities (MBS), allowing banks and other financial institutions to re-deploy capital and extend new credit to households and businesses. Both residential and commercial MBS are pools of mortgages bundled together by financial institutions. Rights to receive a portion of the cash generated by the pools are sold as securities in the financial markets, in the same way a stock or bond would be sold in financial markets.

The Public-Private Investment Program was announced as part of the Financial Stability Plan, which also included a program for legacy loans, to be administered by the FDIC. That program is still under development.

How does the Legacy Securities PPIP work?

- Treasury will partner with selected fund management firms to purchase MBS under the S-PPIP.

- Treasury provides equity as well as debt financing to special purpose entities to be formed by the managers. Treasury will provide one-half of the equity investment; the remainder must be raised by the fund manager from private sources. Treasury also will make a loan to each special purpose entity. The loan will earn interest and must be repaid at the end of the life of the fund.

- The equity investment, together with warrants to be received by Treasury, ensures that if these special purpose entities perform well, the U.S. treasury will benefit from the upside of the performance.

- The S-PPIP is designed to help the financial system recover by encouraging institutions that hold mortgage-backed securities to sell them, thereby freeing up their capital for other purposes.

Legacy Securities PPIP Fund Managers

Following a comprehensive two-month application, evaluation and selection process, during which Treasury received over 100 unique applications to participate in the Legacy Securities PPIP, in July 2009, Treasury pre-qualified the following firms to participate as fund managers in the initial round of the program:

- AllianceBernstein, LP and its sub-advisors Greenfield Partners, LLC and Rialto Capital Management, LLC
- Angelo, Gordon & Co., L.P. and GE Capital Real Estate
- BlackRock, Inc.

Description of TARP Programs – Public-Private Investment Program

- Invesco Ltd.
- Marathon Asset Management, L.P.
- Oaktree Capital Management, L.P.
- RLJ Western Asset Management, LP.
- The TCW Group, Inc.
- Wellington Management Company, LLP

S-PPIP Progress

Treasury is working with the S-PPIP fund managers to develop the program, and the fund managers are raising the required private capital. The program is expected to launch with the first closings in late September.

Treasury expects to provide approximately $30 billion in equity and debt financing to the special purpose entities formed by fund managers in the initial phase of S-PPIP.

Description of TARP Programs – Making Home Affordable

What is the Home Affordable Modification Program?

The Home Affordable Modification Program (HAMP) is designed to give up to 3 to 4 million homeowners an opportunity to reduce their monthly mortgage payments to more affordable levels. Through HAMP, $75 billion is being committed to keep Americans in their homes by preventing avoidable foreclosures. HAMP includes both GSE and non-GSE mortgages. GSE stands for "government sponsored enterprise" and in this report refers to Fannie Mae and Freddie Mac.

- $50 billion of TARP funds will be used primarily to encourage the modification of non-GSE mortgages that financial institutions own and hold in their portfolios (whole loans) and mortgages held in private-label securitization trusts.

- Fannie Mae and Freddie Mac will provide up to an additional $25 billion to encourage servicers and borrowers to modify loans through HAMP that are owned or guaranteed by the two GSEs.

How does the HAMP work?

- Homeowners participating in HAMP work with HUD-certified housing counselors and mortgage servicers to have their monthly first lien mortgage payments adjusted to no more than 31 percent of monthly gross income. In other words, HAMP is designed to enable responsible homeowners to stay in their homes by reducing mortgage payments to an affordable level.

Description of TARP Programs – SCAP and CAP

What are SCAP and CAP?

The **Supervisory Capital Assessment Program (SCAP)** and **Capital Assistance Program (CAP)** are important components of the Financial Stability Plan to help ensure that banks have a sufficient capital cushion in a more adverse economic scenario. SCAP is a comprehensive capital assessment exercise for the largest 19 U.S. bank holding companies and a complement to the CAP. The SCAP assessments, or "stress tests," are the most comprehensive, forward-looking review of the largest U.S. banks.

How does SCAP work?

Federal banking supervisors conducted forward-looking assessments to provide the transparency necessary for individuals and markets to judge the strength of the banking system. Results of the stress tests were released on May 7, 2009.

Some banks were required to take steps to improve the quality and/or the quantity of their capital to give them a larger cushion to support future lending even if the economy performs worse than expected. Banks have a range of options to raise capital in the private markets, including common equity offerings, asset sales and the conversion of other forms of capital into common equity. If these options are not sufficient, they can request additional capital from the government through CAP. Financial institutions must submit a detailed capital plan to supervisors, who will consult with Treasury on the development and evaluation of the plan. Any bank needing to augment its capital buffer at the conclusion of the SCAP was required to develop a detailed capital plan by June 8, 2009, and has until November 9, 2009 to implement that capital plan.

How does CAP work?

In cases in which the SCAP indicated that an additional capital buffer was warranted, institutions have an opportunity to turn first to private sources of capital, but are also eligible to receive government capital via investment available immediately through the CAP. Eligible U.S. banks that did not participate in the SCAP may apply to their primary federal regulator to receive capital under the CAP.

Capital provided under CAP will be in the form of a preferred security that is convertible into common equity. CAP securities will carry a 9 percent dividend yield.

How Treasury Exercises its Voting Rights

The Obama Administration has stated that core principles will guide Treasury's management of financial interests in private firms. One such principle is that the United States government will not interfere with or exert control over day-to-day company operations and, in the event the government obtains ownership interests, it will vote only on key governance issues. These core principles also include Treasury's commitment to seek to dispose of its ownership interests as soon as practicable. Treasury will follow these principles in a manner consistent with the obligation to promote the liquidity and stability of the financial system.

Treasury does not participate in the day-to-day management of any company in which it has an investment nor is any Treasury employee a director of any such company. Treasury's investments have generally been in the form of non-voting securities or loans. For example, the preferred shares that Treasury holds in financial institutions under the Capital Purchase Program do not have voting rights except in certain limited circumstances, such as amendments to the charter of the company, or in the event dividends are not paid for several quarters, in which case Treasury has the right to elect two directors to the board.

Treasury holds common stock in a few companies, including the new General Motors, the new Chrysler, and Citigroup. In those cases, Treasury has announced that it will follow the following principles in exercising its voting rights:

Governance Principles for Citigroup

1) Treasury will exercise its right to vote only on certain matters consisting of:

   - the election or removal of directors;
   - certain major corporate transactions such as mergers, sales of substantially all assets, and dissolution;
   - issuances of equity securities where shareholders are entitled to vote; and
   - amendments to the charter or bylaws.

2) On all other matters, Treasury will vote its shares in the same proportion (for, against or abstain) as all other shares of the company's stock are voted.

These principles are set forth in an agreement between Treasury and Citigroup.

Governance Principles for GM

Before GM's expected initial public offering (IPO), Treasury will vote its shares as it determines, provided that it will vote in favor of directors nominated by the GM Voluntary Employee Benefit Association (VEBA) or the government of Canada, each of which is also a shareholder. After the IPO, the following voting principles will apply:

How Treasury Exercises its Voting Rights

1) Treasury will exercise its right to vote only on certain matters consisting of:

- the removal of directors;
- the election of directors, provided that Treasury will vote in favor of individuals nominated through a certain pre-designated process, and individuals nominated by VEBA;
- certain major corporate transactions such as mergers, sales of substantially all assets, and dissolution;
- amendments to the charter or bylaws; and
- matters in which Treasury's vote is necessary for the stockholders to take action, in which case the shares will be voted in the same proportion (for, against or abstain) as all other shares of the company's stock are voted.

2) On all other matters, Treasury will not vote its shares.

These principles are set forth in the GM Stockholders Agreement.

Governance of AIG

In the case of AIG, the U.S. Treasury is the beneficiary of a trust created by the Federal Reserve Bank of New York (FRBNY). That trust owns shares having 79.8% of the voting rights of the common stock. The FRBNY has appointed three independent trustees who have the power to vote the stock and dispose of the stock with prior approval of FRBNY and after consultation with Treasury. The trust agreement provides that the trustees cannot be employees of Treasury or the FRBNY. The trust exists for the benefit of the U.S. Treasury, and the Department of the Treasury does not control the trust and it cannot direct the trustees. Treasury owns preferred stock which does not have voting rights except in certain limited circumstances (such as amendments to the charter) or in the event dividends are not paid for four quarters, in which case Treasury has the right to elect two directors to the board.

Appendix 2 – Financial Statement

Attached as Appendix 2 is the financial statement required under Sections 105(a)(2) and (3) of EESA for the period ending August 31, 2009.

PREPARED STATEMENT OF NEIL M. BAROFSKY

SPECIAL INSPECTOR GENERAL, TROUBLED ASSET RELIEF PROGRAM

SEPTEMBER 24, 2009

Chairman Dodd, Ranking Member Shelby, and Members of the Committee, I am honored to appear before you today to discuss the Troubled Asset Relief Program (TARP) as we approach the first anniversary of enactment of the Emergency Economic Stabilization Act of 2008 (EESA). I am particularly honored to appear with SIGTARP's oversight partners, Acting Comptroller General Gene Dodaro of the Government Accountability Office and Elizabeth Warren, Chair of the Congressional Oversight Panel.

Introduction

Originally envisioned as a large but fairly straightforward program involving the purchase and management of "toxic" assets, TARP instead has evolved into 12 separate initiatives that are, collectively, of an unprecedented scope, scale, and complexity. From programs involving large capital infusions into hundreds of banks and other financial institutions, to a mortgage modification program designed to modify millions of mortgages, to significant infusions into the automobile industry, to public–private partnerships using tens of billions of taxpayer dollars to purchase "toxic" assets from banks, TARP affects significant portions of the financial system and the economy as a whole.

From a policy perspective, any assessment of whether such a complex enterprise is a success or failure, particularly in light of all of the other Government efforts to stabilize the economy during the worst economic downturn, is a difficult task and depends greatly on one's perspective. With respect to whether TARP has succeeded in restoring liquidity and stability to the financial system, for example, there are without question significant signs of improvement in the stability of the system. The causes for such improvement are no doubt many and complex, but there is little question that the dramatic steps taken by Treasury, the Federal Reserve and the FDIC through TARP and related programs, in the face of what can only be described as panic conditions, played a significant role in bringing the system back from the brink of collapse.

Whether the other policy goals of EESA are being met, on the other hand, is less clear. The progress on meeting the goal of "maximiz[ing] overall returns to the taxpayer" is unclear. While several TARP recipients have repaid funds for what has widely been reported as a 17 percent profit, it is extremely unlikely that the taxpayer will see a full return on its TARP investment. For example, certain TARP programs, such as the mortgage modification program which is scheduled to use $50 billion of TARP funds, will yield no direct return, and for others, including the extraordinary assistance programs to AIG and the auto companies, full recovery is far from certain. Similarly, Treasury's original stated goal of increasing lending has not yet occurred, although, as SIGTARP's recently issued audit on TARP recipients' use of funds indicates, it is likely that lending from TARP recipients would have decreased far more in the absence of TARP funding. Similarly, the goals of "preserving homeownership," "promot[ing] jobs and economic growth" have not yet been met, and the ultimate success of meeting these policy goals will depend on programs that are just now reaching the implementation stage, such as the TARP's mortgage modification program and the public–private investment funds. In the meantime, the risk of foreclosure continues to affect too many Americans; unemployment continues its rise to levels that Treasury has characterized as "unacceptable"; the so-called "toxic" assets that helped cause this crisis for the most part remain right where they were last fall—on the banks' balance sheets; and it is becoming more and more clear that the commercial real estate market might be the next proverbial shoe to drop, threatening to increase the pressure on banks and small business alike yet again.

Viewed from an oversight perspective, the success of the program is likewise mixed. With respect to imposing internal controls over TARP programs, Treasury has steadily improved over time. When SIGTARP first came into being in December 2008, Treasury was simply not equipped—from a resource perspective or in terms of its approach—to provide the kind of oversight and compliance functions that are necessary to manage such a large and complex program effectively. Treasury rolled out early programs with few meaningful conditions and little regard for internal controls: in the Capital Purchase Program (CPP) investments, for example, Treasury's overriding oversight strategy was apparently to trust the banks to be responsible with the money. Over time, and in response to recommendations from the oversight bodies represented at this table, Treasury began to design programs with better internal controls and more effective antifraud provisions. Just 8 days after I was sworn in, for example, we made a recommendation concerning basic internal con-

trols that was adopted by Treasury and implemented into all subsequent programs. Today, in response to our repeated recommendations, the Office of Financial Stability has been devoting the necessary resources to develop a professionally run Compliance and Risk Management function, and while we do not always necessarily agree with them, it is fair to say that, with each program, Treasury actively engages with us with an eye to making the program better from a compliance perspective and less susceptible to waste, fraud, and abuse.

Treasury's basic attitude toward transparency and Congress' stated goal in enacting the TARP of providing "public accountability" for the exercise of authority under EESA, on the other hand, remains a significant frustration. Although SIGTARP understands Treasury's need to balance the public's transparency interests, on one hand, with the interests of the participants and the desire to have wide participation in the programs, on the other, Treasury's default position should always be to require more disclosure rather than less and to provide the investors in TARP—the American taxpayers—as much information about what is being done with their money as possible. While Treasury has taken some steps in the right direction on this front, its continued refusal to accept SIGTARP's basic transparency recommendations on such issues as how TARP recipients are using TARP funds and the disclosure of trading of toxic assets of banks in the PPIP means that TARP largely remains a program in which taxpayers are not being told what most of the TARP recipients are doing with their money and will not be told the full details of how their money is being invested.

TARP in Focus, and in Context

TARP, as originally envisioned in the fall of 2008, would have involved the purchase, management, and sale of up to $700 billion of "toxic" assets, primarily troubled mortgages and mortgage-backed securities (MBS). Very quickly, however, that framework was discarded in favor of direct investments in financial institutions, and TARP funds have subsequently been used, are being used, or have been announced to be used, in connection with 12 separate programs that involve a total (including TARP funds, loans and guarantees from other agencies, and private money) that could reach more than $2 trillion, as set forth in first column of Table 1 below. Treasury has announced the parameters how the $700 billion may be spent for the 12 programs, as set forth in the second column; of this amount, Treasury has legally committed to expend or expended approximately $445 billion, as set forth in the third column.

As noted in the chart, approximately $70.56 billion has been repaid to the TARP by more than a dozen financial institutions, under the CPP. Through September 11, 2009, the Treasury Department granted permission to 41 financial institutions to repay $70.56 billion in Government-bailout funds. Of the 19 largest bank holding companies selected for stress testing under the Supervisory Capital Assessment Program, 9 institutions were approved to repay $66.6 billion. Several smaller financial institutions also repaid the TARP investments both before and after the 9 large institutions' repayments.

TOTAL POTENTIAL FUNDS SUBJECT TO SIGTARP OVERSIGHT, AS OF 6/30/2009 ($ BILLIONS)				
Program	**Brief Description or Participant**	**Total Projected Funding at Risk ($)**	**Projected TARP Funding ($)**	**Committed to Expend or Expended ($)**
Capital Purchase Program	Investments in 649 banks as of 6/30/09; 8 institutions total $134 billion; received $70.6 billion in capital repayments through 9/11/09	$218.0 ($70.6)	$218.0 ($70.6)	204.5
Automotive Industry Financing Program	GM, Chrysler, GMAC, Chrysler Financial; received $2.14 billion in loan repayments (Chrysler Financial)	79.3 (1.5)	79.3 (1.5)	79.3
Auto Supplier Support Program	Government-backed protection for auto parts suppliers	3.5	3.5	3.5
Auto Warranty Commitment Program	Government-backed protection for warranties of cars sold during the GM and Chrysler bankruptcy restructuring proceedings.	0.6 (0.6)	0.6 (0.6)	0.6
Systemically Significant Failing Institutions	AIG investment	69.8	69.8	69.8
Targeted Investment Program	Citigroup, Bank of America investments	40.0	40.0	40.0
Asset Guarantee Program	Citigroup, ring-fence asset guarantee	301.0	5.0	5.0
Term Asset-Backed Securities Loan Facility	FRBNY non-recourse loans for purchase of asset-backed securities	1,000.0	80.0	20.0
Making Home Affordable Program	Modification of mortgage loans	75.0	50.0	22.3
Public-Private Investment Program	Disposition of legacy assets; Legacy Loans Program, Legacy Securities Program (expansion of TALF)	500.0 – 1,000.0	75.0	0.0
Capital Assistance Program	Capital to qualified financial institutions; includes stress test	TBD	TBD	0.0
Unlocking Credit for Small Businesses	Purchase of securities backed by SBA loans.	15	15	0.0
New Programs, or Funds Remaining for Existing Programs	Potential additional funding related to CAP; other programs	135.5	134.5	0.0
Total		**$2,365.0 – $2,865.0**	**$699.0**	**$445**

Oversight Activities of SIGTARP

Since it began operations in December 2008, SIGTARP has been actively engaged in fulfilling its vital investigative and audit functions as well as in building its staff and organization. To date, SIGTARP has hired 86 employees and plans to grow to 160 employees.

SIGTARP's Investigations Division has developed rapidly and is quickly becoming a sophisticated white-collar law enforcement agency. As of June 30, 2009, SIGTARP had 35 ongoing criminal and civil investigations. These investigations include complex issues concerning suspected accounting fraud, securities fraud, insider trading, mortgage servicer misconduct, mortgage fraud, public corruption, false statements, and tax investigations. For example:

- TBW and Colonial Search Warrants: On August 3, 2009, SIGTARP, with the FBI, HUD OIG, and FDIC OIG, executed search warrants at the offices of Taylor, Bean and Whittaker, formerly the Nation's 12th-largest loan originator and servicer, and Colonial Bank, which applied for assistance under the CPP. Prior to the execution of these warrants, SIGTARP had served subpoenas on Colonial after it had announced that it had received preliminary contingent approval from the Treasury to receive $553 million in TARP funding. The funding was never made and this investigation, which is being conducted with both the Department of Justice and the SEC, is ongoing.

- Federal Felony Charges Against Gordon Grigg: On April 23, 2009, Federal felony charges were filed against Gordon B. Grigg in the U.S. District Court for the Middle District of Tennessee, charging him with four counts of mail fraud and four counts of wire fraud. The charges are based on Grigg's role in embezzling approximately $11 million in client investment funds that he garnered through false claims, including that he had invested $5 million in pooled client funds toward the purchase of the TARP-guaranteed debt. Grigg pleaded guilty to all charges and was sentenced to 10 years imprisonment.
- FTC Action Against Misleading Use of "MakingHomeAffordable.gov": On May 15, 2009, based upon an action brought by the Federal Trade Commission (FTC), a Federal district court issued an order to stop an Internet-based operation that pretended to operate "MakingHomeAffordable.gov," the official Web site of the Federal Making Home Affordable program. The FTC's action, which was developed with the investigative assistance of SIGTARP, alleges that the defendants purchased sponsored links as advertising on the results pages of Internet search engines, and, when consumers searched for "making home affordable" or similar search terms, the defendants' ads prominently and conspicuously displayed "MakingHomeAffordable.gov." Consumers who clicked on this link were not directed to the official Web site, but were diverted to sites that solicit applicants for paid loan modification services. The operators of these Web sites either purport to offer loan modification services themselves or sold the victims' personally identifying information to others.
- National Housing Modification Center: On September 16, 2009, the FTC filed a complaint against the Nations Housing Modification Center (NHMC) and its principals in the U.S. District Court for the District of Columbia. With investigative support from SIGTARP and other Federal, State and local enforcement partners, the FTC alleged violations of the FTC Act and Telemarketing Sales Rules by NHMC by misrepresenting itself as a Federal Government agency or affiliate and falsely claiming that they would obtain mortgage modifications for consumers for a $3,000 fee. SIGTARP's joint investigation is continuing.
- Bank of America: SIGTARP continues to play a significant role in the investigations by the New York State Attorney General's Office, the SEC and the Department of Justice into the circumstances of Bank of America's merger with Merrill Lynch and its receipt of additional TARP funds under the Targeted Investment Program.

More than 50 percent of SIGTARP's ongoing investigations were developed in whole or in part through tips or leads provided on SIGTARP's Hotline (877-SIG-2009, which is also accessible at *www.SIGTARP.gov*). Since the SIGTARP Hotline commenced operations, it has received and analyzed more than 6,572 tips, running the gamut from expressions of concern over the economy to serious allegations of fraud.

SIGTARP remains committed to being proactive in dealing with potential fraud in TARP. For example, the previously announced TALF Task Force, which was organized by SIGTARP to get out in front of any efforts to profit criminally from the Term Asset-Backed Securities Loan Facility (TALF), has been expanded to cover the Public–Private Investment Program (PPIP). In addition to SIGTARP, the TALF–PPIP Task Force consists of the Inspector General of the Board of Governors of the Federal Reserve System, the FBI, Treasury's Financial Crimes Enforcement Network, U.S. Immigration and Customs Enforcement, the Internal Revenue Service Criminal Investigation Division, the Securities and Exchange Commission, and the U.S. Postal Inspection Service.

SIGTARP's Audit Division has completed its first round of audits. SIGTARP issued its first formal audit report concerning how recipients of CPP funds reported their use of such funds based upon a February 2009 survey SIGTARP sent to more than 360 financial and other institutions that had completed TARP funding agreements through January 2009. Although most banks reported they did not segregate or track TARP fund usage on a dollar-for-dollar basis, they were able to provide insights into their actual or planned future use of TARP funds. For some respondents the infusion of TARP funds helped to avoid a "managed" reduction of their activities; others reported that their lending activities would have come to a standstill without TARP funds; and others explained that they used TARP funds to acquire other institutions, invest in securities, pay off debts, or that they retained the funds to serve as a cushion against future losses. Many survey responses also highlighted the importance of the TARP funds to the bank's capital base, and by extension, the impact of the funds on lending. As I previously noted, Treasury has failed to adopt the audit's recommendation that it require TARP recipients to report on their use of funds.

SIGTARP has also completed an audit examining undue external influences over the CPP decision making. This audit addressed the extent to which Treasury and the banking regulators have controls to safeguard against external influences over the CPP decision-making process and whether there were any indications of external parties having unduly influenced CPP decision making. SIGTARP found no information indicating that external inquiries on CPP applications had affected the decision-making process, but gaps in the internal controls by the Government agencies conducting the CPP application process makes it impossible to determine if all attempts to influence TARP decisions were captured by the audit. Of the 56 institutions SIGTARP identified that were the subjects of external inquiries, three institutions did not meet all the CPP quantitative criteria but were approved based on mitigating factors considered by Treasury and banking agency officials. Among these three, one institution stood out. SIGTARP's analysis indicated that discretion afforded this applicant in its approval was greater than that afforded other applicants. In connection with the audit, SIGTARP made recommendations regarding the improvement of internal controls and record keeping, which Treasury has adopted.

SIGTARP also issued an audit examining executive compensation restriction compliance. This audit examined the efforts of TARP recipients' to comply with executive compensation restrictions in place at the time of SIGTARP's survey of banks use of funds. The audit was set against a background of the evolving rules on executive compensation for TARP recipients. Although recipients expressed frustration with changing compensation guidance, they were able to report the actions that they have been taking.

SIGTARP also has audits nearing completion examining the selection of the first nine participants for funds under CPP (with a particular emphasis on Bank of America), AIG bonuses, AIG counterparty payments, and an update on SIGTARP's use of funds survey. In addition, SIGTARP is undertaking a series of new audits, as follows:

- CPP Warrant Valuation and Disposition Process: The audit will seek to determine (i) the extent to which financial institutions have repaid Treasury's investment under CPP and the extent to which the warrants associated with that process were repurchased or sold; and (ii) what process and procedures Treasury has established to ensure the Government receives fair market value for the warrants and the extent to which Treasury follows a clear, consistent, and objective process in reaching decisions where differing valuations of warrants exist. This audit complements a July 10, 2009, report by the Congressional Oversight Panel examining the warrant valuation process.
- Governance Issues Where U.S. Holds Large Ownership Interests: The audit will examine governance issues when the U.S. Government has obtained a large ownership interest in a particular institution, including: (i) what is the extent of Government involvement in management of companies in which it has made sizeable investments, including direction and control over such elements as governance, compensation, spending, and other corporate decision making; (ii) to what extent are effective risk management, monitoring, and internal controls in place to protect and balance the Government's interests and corporate needs; (iii) are there performance measures in place that can be used to track progress against long-term goals and timeframes affecting the Government's ability to wind down its investments and disengage from these companies; and (iv) is there adequate transparency to support decision making and to provide full disclosure to the Congress and the public.
- Status of the Government's Asset Guarantee Program with Citigroup: The audit will examine the Government's Asset Guarantee Program with Citigroup. Specifically, the audit will address: (i) how was the program for Citigroup developed; (ii) what are the current cash flows from the affected assets; and (iii) what are the potential for losses to Treasury, the Federal Deposit Insurance Corporation, and the Federal Reserve.
- Making Home Affordable Mortgage Modification Program: The audit will examine the Making Home Affordable mortgage modification program to assess the status of the program, the effectiveness of outreach efforts, capabilities of loan servicers to provide services to eligible recipients, and challenges confronting the program as it goes forward.
- Auto Dealership Terminations: The audit will examine the process used by General Motors (GM) and Chrysler to identify which automotive dealerships should be maintained or terminated. GM and Chrysler reportedly have announced plans to terminate more than 2,000 automotive dealerships as part of their restructuring process.

SIGTARP's Recommendations on the Operation of TARP

One of SIGTARP's responsibilities is to provide recommendations to Treasury so that TARP programs can be designed or modified to facilitate effective transparency and to deter fraud, waste, and abuse. SIGTARP has now made dozens of such recommendations, and the reader is referred to SIGTARP's July Quarterly Report starting on page 188 for a full listing of the recommendations and Treasury's responses to them. Four recommendations concerning transparency are detailed here.

Transparency in TARP Programs

Although Treasury has taken some steps toward improving transparency in TARP programs, it has repeatedly failed to adopt recommendations that SIGTARP believes are essential to providing basic transparency and fulfill Treasury's stated commitment to implement TARP "with the highest degree of accountability and transparency possible."

- Use of Funds Generally: One of SIGTARP's first recommendations was that Treasury require all TARP recipients to report on the actual use of TARP funds. Other than in a few agreements (with Citigroup, Bank of America, and AIG), Treasury declined to adopt this recommendation, calling any such reporting "meaningless" in light of the inherent fungibility of money. SIGTARP, nonetheless, continues to believe that banks can provide meaningful information about what they are doing with TARP funds—in particular what activities they would not have been able to do but for the infusion of TARP funds. That belief has been supported by SIGTARP's first audit, in which nearly all banks were able to provide such information. SIGTARP's report noted that most firms reported multiple and sometimes interrelated uses of the funds. For example:
  - More than 80 percent of the respondents cited the use of funds for lending or how it helped them avoid reduced lending. Many banks reported that lending would have been lower without TARP funds or would have come to a standstill.
  - More than 40 percent of the respondents reported that they used some TARP funds to help maintain the capital cushions and reserves required by their banking regulators to be able to absorb unanticipated losses.
  - Nearly a third of the respondents reported that they used some TARP funds to invest in agency-mortgage backed securities. These actions, they claimed, provided immediate support of the lending and borrowing activities of other banks and positioned the banks for increased lending later.
  - A smaller number reported using some TARP funds to repay outstanding loans—some because the TARP funds were a more cost-effective source of funds than their outstanding debt, and some because of pressure from a creditor to use the funds for that purpose.
  - Several banks reported using some TARP funds to buy other banks. One reported that this was a cost-effective way to acquire additional deposits that, in turn, would facilitate an even greater amount of lending.
  - Some banks reported that they had not yet allocated funds for lending and other activities due to the short time elapsed since the receipt of funds, the weak demand for credit, and the uncertain economic environment.
- In response to SIGTARP's recommendation, on September 16, 2009, Treasury informed SIGTARP that it was expanding its Quarterly CPP Report to include two additional categories of information that the TARP recipients indicated in the SIGTARP survey responses as a way that they used TARP funds. Treasury said this expansion will begin with the next Quarterly CPP Report, scheduled to be released during October 2009. Although this expansion should provide some additional information on an aggregate basis, it falls short of meeting the goal of basic transparency regarding the use of TARP funds. For example, it will only include aggregate data and will not report on each institution. It will not capture the broader range of use of funds depicted in SIGTARP's report, nor will it reflect how they may be changing over time. It also will not reflect the financial institution's view of what steps it was able to take that it otherwise would not have been able to take absent its receipt of TARP funds. While SIGTARP is encouraged that Treasury has apparently abandoned its prior position that it is impossible to measure and report on TARP recipients' use of funds, we remain puzzled as to why Treasury refuses to adopt our recommendation to report on each TARP recipient's use of TARP funds.
- Valuation of the TARP Portfolio: SIGTARP has recommended that Treasury begin reporting on the values of its TARP portfolio so that taxpayers can get

regular updates on the financial performance of their TARP investments. Notwithstanding that Treasury has now retained asset managers and is receiving such valuation data on a monthly basis, Treasury has not committed to providing such information except on the statutorily required annual basis.

- Disclosure of TALF Borrowers Upon Surrender of Collateral: In TALF, the loans are nonrecourse, that is, the lender (Federal Reserve Bank of New York) will have no recourse against the borrower beyond taking possession of the posted collateral (consisting of asset-backed securities (ABS)). Under the program, should such a collateral surrender occur, TARP funds will be used to purchase the surrendered collateral. In light of this use of TARP funds, SIGTARP has recommended that Treasury and the Federal Reserve disclose the identity of any TALF borrowers that fail to repay the TALF loan and must surrender the ABS collateral. To date, Treasury has refused to implement the disclosure.
- Regular Disclosure of PPIF Activity, Holdings, and Valuation: In the PPIP Legacy Securities Program, the taxpayer will be providing a substantial portion of the funds (contributing both equity and lending) that will be used to purchase toxic assets in the Public–Private Investment Funds (PPIFs). SIGTARP has recommended that all trading activity, holdings, and valuations of assets of the PPIFs be disclosed on a timely basis. Not only should this disclosure be required as a matter of basic transparency in light of the billions of taxpayer dollars at stake, but such disclosure would also serve well one of Treasury's stated reasons for the program in the first instance: the promotion of "price discovery" in the illiquid market for MBS. Treasury has indicated that it will not require such disclosure.

Chairman Dodd, Ranking Member Shelby, and Members of the Committee, I want to thank you again for this opportunity to appear before you, and I would be pleased to respond to any questions that you may have.

PREPARED STATEMENT OF GENE L. DODARO

ACTING COMPTROLLER GENERAL, GOVERNMENT ACCOUNTABILITY OFFICE

SEPTEMBER 24, 2009

United States Government Accountability Office

GAO

Testimony

Before the Committee on Banking, Housing, and Urban Affairs, U.S. Senate

For Release on Delivery
Expected at 9:30 a.m. EDT
Thursday, September 24, 2009

TROUBLED ASSET RELIEF PROGRAM

Status of Efforts to Address Transparency and Accountability Issues

Statement of Gene L. Dodaro
Acting Comptroller General of the United States

GAO
Accountability * Integrity * Reliability

GAO-09-1048T

Chairman Dodd, Ranking Member Shelby, and Members of the Committee:

I am pleased to be here today to discuss our work on the Troubled Asset Relief Program (TARP), under which the Department of the Treasury (Treasury), through the Office of Financial Stability (OFS), has the authority to purchase or insure almost $700 billion in troubled assets held by financial institutions.[1] As you know, about 1 year ago, Treasury was granted this authority in response to the financial crisis that has threatened the stability of the U.S. banking system and the solvency of numerous financial institutions. The Emergency Economic Stabilization Act (the act) that authorized TARP on October 3, 2008, requires GAO to report at least every 60 days on findings resulting from our oversight of actions taken under the program.[2] Our statement today draws on the 7 reports we have issued to date under this mandate and on ongoing work.[3] Our next report, planned to be issued early next month, will include a detailed progress report of TARP programs and activities over the past year.

[1]The Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343, 122 Stat. 3765 (2008) originally authorized Treasury to buy or guarantee up to $700 billion in troubled assets. The Helping Families Save Their Homes Act of 2009, Pub. L. No. 111-22, Div. A, amended the act and reduced the maximum allowable amount of outstanding troubled assets under the act by almost $1.3 billion, from $700 billion to $698.741 billion.

[2]The Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343, 122 Stat. 3765 (2008). The act requires the U.S. Comptroller General to report at least every 60 days, as appropriate, on findings resulting from oversight of TARP's performance in meeting the act's purposes; the financial condition and internal controls of TARP, its representatives, and agents; the characteristics of asset purchases and the disposition of acquired assets, including any related commitments entered into; TARP's efficiency in using the funds appropriated for its operations; its compliance with applicable laws and regulations; and its efforts to prevent, identify, and minimize conflicts of interest among those involved in its operations.

[3]See GAO, *Troubled Asset Relief Program: Additional Actions Needed to Better Ensure Integrity, Accountability, and Transparency*, GAO-09-161 (Washington, D.C.: Dec. 2, 2008); *Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues*, GAO-09-296 (Washington, D.C.: Jan. 30, 2009); *Troubled Asset Relief Program: March 2009 Status of Efforts to Address Transparency and Accountability Issues*, GAO-09-504 (Washington, D.C.: Mar. 31, 2009); *Auto Industry: Summary of Government Efforts and Automakers' Restructuring to Date*, GAO-09-553 (Washington, D.C.: Apr. 23, 2009); *Troubled Asset Relief Program: June 2009 Status of Efforts to Address Transparency and Accountability Issues*, GAO-09-658 (Washington, D.C.: June 17, 2009); *Troubled Asset Relief Program: Treasury Actions Needed to Make the Home Affordable Modification Program More Transparent and Accountable*, GAO-09-837 (Washington, D.C.: July 23, 2009); and *Troubled Asset Relief Program: Status of Government Assistance to AIG*, GAO-09-975 (Washington, D.C.: Sept. 21, 2009).

Specifically, this statement focuses on (1) the nature and purpose of activities that have been initiated under TARP over the past year and ongoing challenges; (2) Treasury's efforts to establish a management infrastructure for TARP; and (3) outcomes measured by indicators of TARP's performance. To do this work, we reviewed documents provided by OFS and conducted interviews with Treasury and OFS officials. In addition, we have updated the program's receipts and disbursements through September 11, 2009. We plan to continue to monitor the issues highlighted in this statement, as well as future and ongoing capital purchases and ongoing repurchases. We conducted this performance audit between June 2009 and September 2009 in accordance with generally accepted government auditing standards.

Summary

TARP is one of many programs and activities the federal government has put in place over the past year to respond to the financial crisis. It represents a significant government commitment to stabilizing the financial system. For example, as of September 11, 2009, it had disbursed $363 billion to participating institutions. At the same time, TARP's Capital Purchase Program (CPP) has shown evidence of some success in returning funds to the federal government. Treasury has received almost $7 billion in dividend payments, about $2.9 billion in warrant liquidations, and over $70 billion in repurchases from institutions participating in CPP, as of August 31, 2009. But TARP still faces a variety of challenges. For example, CPP, the largest of the TARP programs, has hundreds of participating institutions. Because of its size, this program requires ongoing strong oversight to ensure that participants comply with the program's requirements as we have recommended in prior reports. In addition, most of the other investment-based TARP programs that have provided assistance to a few large individual institutions present Treasury with the challenge of determining when assistance is no longer needed. Further, amid concerns about the strategic direction of the program and lack of transparency, the new administration has attempted to provide a more strategic plan for using the remaining funds and has created a number of programs aimed at stabilizing the securitization markets and preserving homeownership. While some programs, such as the Term Asset-backed Securities Loan Facility (TALF), are fully operational, others including the Home Affordable Modification Program (HAMP) and the Public-Private Investment Program (PPIP), are still new and face ongoing implementation and operational challenges. Finally, even though substantial investments have been made to avert the collapse of American International Group, Inc. (AIG), General Motors Corporation (GM), and Chrysler LLC (Chrysler), the ultimate outcomes of these investments are

unclear and will be influenced by the long-term viability of these entities. Certain of these TARP investments were made with Treasury's expectation that the disbursements would be returned to the federal government. HAMP funds, however, are direct expenditures which are not expected to be repaid. But given the many challenges and uncertainties facing TARP programs, the total cost to the government of these programs remains unclear at this time.

OFS has continued to make progress in establishing a management infrastructure to administer TARP and oversee contractors and financial agents, but some challenges also remain in this area. Though OFS now has close to 200 staff, some key senior positions remain unfilled on a permanent basis, such as the Chief Homeownership Preservation Officer and Chief Investment Officer. Bringing on board permanent staff for these key positions is important in helping Treasury effectively administer TARP activities and ensuring accountability for program outcomes. Treasury has strengthened its management and oversight of its contractors as its reliance on them to support TARP grew over the past year. OFS continues to make progress in developing a comprehensive system of internal control. As we complete our first audit of OFS's annual financial statements for TARP, we will be able to provide a more definitive view of TARP's internal controls over financial reporting. Over the past year, OFS has also started to take steps to formalize its communication strategy and improve how it communicates with Congress and the public about TARP activities and the strategy for using TARP funds. Consistent and timely communication will continue to be an important function for Treasury as it continues to make important decisions on the use of TARP funds.

While isolating and estimating the effect of TARP programs continues to present a number of challenges, indicators that we have been following of the cost of credit and perceptions of risk in credit markets suggest broad improvement since the announcement of CPP in October 2008. In particular, a significant improvement in the interbank market has been associated with the announcement of CPP and other programs outside TARP. Treasury has recently released a report that begins to discuss the next phase of its stabilization and rehabilitation efforts that also includes a range of indicators.[4] Treasury's authority to purchase or insure additional troubled assets will expire on December 31, 2009, unless the Secretary

[4]Department of the Treasury, *The Next Phase of Government Financial Stabilization and Rehabilitation Policies* (Washington, D.C.: September 2009).

submits a written certification to Congress. Thus, Treasury will need to make decisions about providing new funding for TARP programs in the next few months. A set of indicators could serve as part of an analytical basis for such a determination.

We recognize the challenges associated with implementing a program during a crisis and concurrently establishing a comprehensive system of internal control. In the last year, we have made 36 recommendations to Treasury aimed at helping to improve the accountability, integrity, and transparency of TARP. Treasury has taken actions to address almost all of them and we continue to monitor those recommendations that may require additional action. We have continued to coordinate our work with entities created under the act that also were assigned oversight responsibilities for TARP, including the Congressional Oversight Panel, the Financial Stability Oversight Board, and the Special Inspector General for TARP (SIGTARP). We are currently conducting a coordinated review with SIGTARP on U.S. government oversight over and interaction with the management of institutions, where the government is approaching or in effect has majority owner status.[5] We also have ongoing engagements reviewing the operations and activities of several TARP programs, including CPP, HAMP, PPIP, TALF, the Supervisory Capital Assessment Program ("stress tests"), AIG, and the Automobile Industry Financing Program (AIFP).

[5]This coordinated effort with SIGTARP will cover organizations receiving TARP funds, such as AIG, General Motors, Chrysler, GMAC, Bank of America, and Citigroup. It will also review the federal government's involvement in Fannie Mae and Freddie Mac.

TARP Strategy Has Evolved From Capitalizing Institutions to Stabilizing Securitization Markets and Preserving Homeownership

In the past year, Treasury has implemented a range of TARP programs to stabilize the financial system. As of September 11, 2009, it had disbursed just over $363 billion for TARP loans and equity investments (table 1). In addition to disbursements, participating institutions have paid Treasury billions of dollars in repurchases of preferred shares and warrants, dividend payments, and loan repayments. In particular, Treasury has received almost $7 billion in dividend payments, about $2.9 billion in warrant liquidations, and over $70 billion in repurchases from institutions participating in CPP, as of August 31, 2009.

Table 1. TARP Program Description and Total Disbursements, as of September 11, 2009 (dollars in billions)

Program and Purpose	Total Disbursed[a]
Capital Purchase Program. To provide capital to viable banks through the purchase of preferred shares and subordinated debentures.	$204.5
Targeted Investment Program. To foster market stability and thereby strengthen the economy by making case-by-case investments in institutions that Treasury deems are critical to the functioning of the financial system.	40.0
Capital Assistance Program. To restore confidence throughout the financial system that the nation's largest banking institutions have sufficient capital to cushion themselves against larger-than-expected future losses, and to support lending to creditworthy borrowers.	TBD
Systemically Significant Failing Institutions. To provide stability in financial markets and avoid disruptions to the markets from the failure of a systemically significant institution. Treasury determines participation in this program on a case-by-case basis.	43.2
Asset Guarantee Program. To provide government assurances for assets held by financial institutions that are viewed as critical to the functioning of the nation's financial system.	0.0
Automotive Industry Financing Program. To prevent a significant disruption of the American automotive industry.	75.9
Home Affordable Modification Program. To offer assistance to an estimated 3 to 4 million homeowners through a cost-sharing arrangement with mortgage holders and investors to reduce the monthly mortgage payment amounts of homeowners at risk of foreclosure to affordable levels.	0.0[b]
Consumer & Business Lending Initiative.[c] To support consumer and business credit markets by providing financing to private investors to issue new securitizations to help unfreeze and lower interest rates for auto, student, and small business loans; credit cards; commercial mortgages; and other consumer and business credit.	0.1
Public-Private Investment Program. To address the challenge of "legacy assets" as part of Treasury's efforts to repair balance sheets throughout the financial system and increase the availability of credit to households and businesses.	0.0
Total	**$363.7**

Source: Treasury OFS, unaudited.

[a]Disbursement amounts do not reflect repurchases, dividend payments, and other receipts.

[b]Treasury has disbursed $276,000 in HAMP incentive payments to participating servicers.

[7]The Consumer & Business Lending Initiative includes TALF and the former Small Business and Community Lending Program.

CPP continues to be the largest and most widely used program under Treasury's TARP authority for stabilizing the financial system. Over the last year, CPP has made significant capital investments in financial institutions, and although Treasury has made progress in monitoring the activities of CPP participants, challenges remain in ensuring that participants comply with program requirements. As of September 11, 2009, CPP had provided more than $204 billion in capital to more than 670 institutions, about 56 percent of total TARP disbursements. The amount of disbursements has slowed significantly, in part, because the institutions receiving CPP capital in recent months are generally smaller than those that received capital in the beginning of the program. Also, many CPP applicants have withdrawn their applications from consideration because of uncertainties about program requirements and improving economic conditions.

Consistent with our recommendations, Treasury began to collect detailed information for the largest institutions in February 2009 and basic information through monthly lending surveys from all CPP participating institutions later in June. These monthly surveys are an important step toward greater transparency and accountability for institutions of all sizes. We have also made recommendations that Treasury strengthen its oversight of participants' compliance with the act's program requirements (e.g., restrictions on executive compensation, dividend payments, and stock repurchases), and Treasury continues to make progress in these areas. For example, Treasury has hired three asset management firms to provide market advice about its portfolio of investments and to oversee compliance with the terms of CPP agreements. However, Treasury has yet to finalize the specific guidance and performance measures for the asset managers' oversight responsibilities and has not established a process for monitoring asset managers' performance.

Early in the implementation of TARP, Treasury provided what it now refers to as "exceptional assistance" to three institutions—AIG, Citigroup and Bank of America. For example, Treasury, along with the Board of Governors of the Federal Reserve System (Federal Reserve), and the Federal Reserve Bank of New York (FRBNY), provided assistance to AIG, the sole participant in TARP's Systemically Significant Failing Institutions (SSFI) program. As discussed in our recently issued report, Treasury committed $70 billion in TARP funds to AIG and, together with the Federal Reserve, had made over $182 billion available to assist the company

between September 2008 and April 2009.[6] As of September 2, 2009, the outstanding balance of federal government assistance used by AIG was $120.7 billion. In providing the assistance, Treasury and the Federal Reserve have taken several steps intended to protect the federal government's interest. These include making loans that are secured with collateral, instituting certain controls over management, and obtaining compensation for risks such as charging interest, requiring dividend payments, and obtaining warrants. Moreover, Treasury and the FRBNY staff routinely monitor AIG's operations and receive reports on AIG's condition and restructuring. While these efforts are being made, however, the government remains exposed to risks, including credit and investment risk. As a result, Treasury and FRNYB may not be repaid in full. We recently reported that, as of September 21, 2009, AIG had not declared and paid the three scheduled dividend payments since the inception of the preferred equity investments.[7] According to Treasury, if AIG fails to make its next dividend payment due on November 1, Treasury will be able to directly elect at least two board members. GAO-developed indicators of AIG's repayment of federal assistance show some progress in AIG's ability to repay the federal assistance; however, any improvement in the stability of AIG's business depends on the long-term health of the company, market conditions, and continued federal government support. For this reason, the ultimate success of federal efforts to aid AIG's restructuring and the scope of possible repayments remain unclear at this point.

Also during the early phase of TARP (December 2008), Treasury established the Automotive Industry Financing Program (AIFP) to help stabilize the U.S. automotive industry and avoid disruptions that would pose systemic risk to the nation's economy. Under this program, Treasury has committed a total of about $82.6 billion to help support automakers, automotive suppliers, consumers, and auto finance companies.[8] Chrysler and GM have received a sizeable amount of funding to support their reorganization.[9] In exchange, Treasury received a substantial ownership interest in the companies and debt obligations. Over the last year, Chrysler and GM filed for bankruptcy and streamlined their operations by closing factories and reducing the number of dealerships. However, whether the

[6]GAO-09-975.

[7]AIG only has to make dividend payments when it declares dividends.

[8]We reported previously on this program. See GAO-09-553.

[9]Ford Motor Company did not seek assistance from AIFP.

new Chrysler and new GM will achieve long-term financial viability remains unclear. As we have previously reported, Treasury should have a plan for ending its financial involvement with Chrysler and GM that indicates how it will divest itself of its ownership shares. In developing and implementing such a plan, Treasury should weigh the objective of expeditiously ending the federal government's financial involvement in the companies with the objective of recovering an acceptable amount of the funding provided to them. We will report later this fall on Treasury's approach to managing its ownership interests in the companies, how it plans to divest itself of these interests, and the progress the companies have made in restructuring since receiving federal government assistance. We also plan to report this winter on how Chrysler and GM's restructuring efforts have affected their pension plan assets and what the federal government's potential exposure will be should the companies terminate their plans.

Following the early months of TARP implementation, which largely focused on capital investments and amid concerns about the overall strategic direction of the program and lack of transparency, the new administration has attempted to provide a more strategic direction for using the remaining funds and creating a number of programs aimed at stabilizing the securitization markets and preserving homeownership. For example, TALF, a program launched by Treasury and the Federal Reserve, has been mostly used for credit card and auto loan securitization and was extended through March 2010 for more asset classes.[10] As of September 17, 2009, TALF loan requests are only about a quarter of the $200 billion maximum that Treasury currently anticipates being made by FRBNY, which is much less than the $1 trillion potential expansion that the Federal Reserve and Treasury initially announced.[11] The relatively low loan volume could be attributed to recent improvements in securitization and credit markets that make the financing terms of TALF loans less attractive, according to agency officials and certain market participants. Because the Banking Agency Audit Act (31 U.S.C. § 714) prohibits GAO from auditing certain Federal Reserve activities, we are limited in our ability to review the Federal Reserve's actions with respect to TALF. In May 2009,

[10]The TALF extension is through March 2010 for all asset classes except new commercial mortgage-backed securities (CMBS), which will be accepted through July 2010.

[11]FRBNY currently plans to provide up to $200 billion in TALF loans using non-TARP funds, and Treasury currently plans to provide up to $20 billion in TARP funds to purchase collateral surrendered in the event TALF loans are not repaid.

legislation was passed that gave GAO authority to audit Federal Reserve actions taken with respect to three entities also assisted under TARP—AIG, Citigroup and Bank of America—but not TALF. To enable us to audit TARP support for TALF most effectively, we would support legislation to provide GAO with audit authority over Federal Reserve actions taken with respect to TALF, together with appropriate access.

While TALF has been implemented, HAMP and PPIP face ongoing implementation and operational challenges. For example,

- HAMP faces a significant challenge that centers on uncertainty over the number of homeowners it will ultimately help. Residential mortgage defaults and foreclosures are at historical highs and Treasury officials and others have identified reducing the number of unnecessary foreclosures as critical to the current economic recovery. In our July 2009 report, we noted that Treasury's estimate of the 3 to 4 million homeowners who would likely be helped under the HAMP loan modification program may have been overstated.[12] Further, concerns have been raised about the capacity and consistency of servicers participating in HAMP in offering loan modifications to qualified homeowners facing potential foreclosure. Treasury has taken some actions to encourage servicers to increase the number of modifications made, including sending a letter to participating HAMP servicers and meeting with them to discuss challenges to making modifications. However, the ultimate result of Treasury's actions to increase the number of HAMP loan modifications and the corresponding impact on stabilizing the housing market remains to be seen. Treasury faces other challenges in implementing HAMP, including ensuring that decisions to deny or approve a loan modification are transparent to borrowers and establishing an effective system of operational controls to oversee the compliance of participating servicers with HAMP guidelines. In July 2009, we made six recommendations to Treasury to help improve the transparency and accountability of HAMP, which included recommending actions to monitor particular program requirements, reevaluate and review certain program components and assumptions, and strengthen internal controls over HAMP. Treasury noted that it will take various actions in response to our recommendations, such as exploring options to monitor counseling requirements and working to refine its internal controls over HAMP. We plan to continue to monitor Treasury's responses to our recommendations as part of our ongoing work on HAMP.

[12]GAO-09-837.

- Treasury announced PPIP in March 2009, but as of September 2009 many elements of the program remain unimplemented and some have questioned whether the program is actually needed.[13] While Treasury continues to take steps to implement the legacy securities program, the legacy loans program has been on hold since early June.[14] Some market participants and observers we spoke with questioned the necessity and timing of PPIP, noting that while the problem of toxic assets remains, the program is less important now than when the crisis first began, for several reasons. One main reason cited by these individuals and by Treasury and the FDIC is that rising investor confidence following the stress test results and successful capital-raising by financial institutions reduced the need for the legacy loans portion of PPIP. In addition, banks have increasing incentives to hold troubled assets in the hopes that such assets will perform better in the future, rather than taking losses now.

Treasury Has Made Progress in Developing OFS's Management Infrastructure, but Effective Communication Has Been an Ongoing Challenge

Treasury has continued to make progress in establishing OFS's management infrastructure, overseeing of contractors and financial agents, and developing a system of internal control for financial reporting. However, some challenges remain—for example, in staffing some key positions.

- In accordance with our prior recommendation that it expeditiously hire personnel to OFS, Treasury continued to use direct-hire and various other appointments to bring a number of staff on board quickly and has 197 staff as of September 15, 2009. However, it has yet to fill several key senior positions. For example, in our July 2009 report we recommended that Treasury give high priority to filling the Chief Homeownership Preservation Officer position. Treasury has also been seeking to fill the Chief Investment Officer position since June 2009. Neither position has

[13]PPIP was created to help restart the market for legacy assets (both securities and loans), to allow banks and other financial institutions to free up capital, and to stimulate the extension of new credit.

[14]For the legacy securities program, Treasury publicly named 9 fund managers for the public-private investment funds (PPIFs) in July 2009, but the selections are preliminary, awaiting final agreements between Treasury and the managers. Until the final agreements are in place, the PPIFs cannot receive firm investor commitments, begin investing, or receive funding from Treasury. For legacy loans, FDIC has tested a pilot program on assets it acquired through a bank failure that could form the basis of a fully implemented legacy loans program. For FDIC to fully implement the legacy loan program, however, Treasury (with a recommendation from the Federal Reserve Board) needs to make a systemic risk determination, and FDIC officials think this is unlikely unless economic conditions deteriorate significantly.

been filled with permanent staff as of September 15, 2009.

- Treasury has strengthened management and oversight as reliance on contractors to support TARP grew over the past year. Treasury is using contracts and financial agency agreements with several private sector firms to obtain a wide range of professional services and other support. In starting up TARP a year ago, OFS's management infrastructure lacked many of the necessary oversight procedures and internal controls for its growing number of contractors and financial agents, including a comprehensive and complete compliance system to monitor and appropriately address vendor-related conflicts of interest. However, Treasury has taken a number of steps toward overcoming a challenging contracting environment and has implemented or substantially implemented all of our contracting- and conflicts-of-interest recommendations we have made over the past year.

- OFS has also made progress in developing a comprehensive system of internal control, as we recommended. As required by section 116(b) of the act, we are currently performing the audit of TARP's financial statements and the related internal controls. Our objectives are to render opinions on (1) the financial statements as of and for the period ending September 30, 2009, and (2) internal control over financial reporting and compliance with applicable laws and regulations as of September 30, 2009. We will also be reporting on the results of our tests of TARP's compliance with selected provisions of laws and regulations related to financial reporting. The results of our financial statement audit will be published in a separate report.

We also made a series of recommendations aimed at improving the transparency of TARP including that Treasury establish more effective communication with Congress and the public and develop a clearly articulated strategy for the program, among other things. Consistent with our recommendations, OFS has taken steps over the last year to formalize its communication strategy and improve its communications with Congress and the public about TARP activities and the strategy for using TARP funds. Consistent and timely communication will continue to be an important focus for Treasury as it makes key decisions on the remaining use of TARP funds.

Indicators Suggest Positive Developments in Credit Markets, but Isolating TARP's Impact Continues to Present Challenges

While isolating and estimating the effect of TARP programs continues to present a number of challenges, indicators of the cost of credit and perceptions of risk in credit markets suggest broad improvement since the announcement of CPP in October 2008. As we have noted in prior reports, if TARP is having its intended effect, a number of developments might be observed in credit and other markets over time, such as reduced risk spreads, declining borrowing costs, and more lending activity than there would have been in its absence. However, a slow recovery does not necessarily mean that TARP is failing, because it is not clear what would have happened without the programs. In particular, several market factors helping to explain slow growth in lending include weaknesses in securitization markets and the balance sheets of financial intermediaries, a decline in the demand for credit, and the reduced creditworthiness among borrowers. Nevertheless, as shown in table 2, credit market indicators we have been monitoring suggest there has been broad improvement in interbank, mortgage, and corporate debt markets in terms of the cost of credit and perceptions of risk (as measured by premiums over Treasury securities). In addition, empirical analysis of the interbank market, which showed signs of significant stress in 2008, suggests that CPP and other programs outside TARP that were announced in October 2008 have resulted in a statistically significant improvement in risk spreads even in the presence of other important factors. Although rising foreclosures continue to highlight the challenges facing the U.S. economy, total mortgage originations in the second quarter of 2009 have more than doubled since the fourth quarter of 2008.

Table 2. Select Credit Market Indicators as of September 15, 2009

Credit market rates and spreads		
Indicator	**Description**	**Basis point change since October 13, 2008**
LIBOR	3-month London interbank offered rate (an average of interest rates offered on dollar-denominated loans)	Down 446
TED Spread	Spread between 3-month LIBOR and 3-month Treasury yield	Down 434
Aaa bond rate	Rate on highest quality corporate bonds	Down 130
Aaa bond spread	Spread between Aaa bond rate and 10-year Treasury yield	Down 83
Baa bond rate	Rate on corporate bonds subject to moderate credit risk	Down 239
Baa bond spread	Spread between Baa bond rate and 10-year Treasury yield	Down 192
Mortgage rates	30-year conforming loans rate	Down 139
Mortgage spread	Spread between 30-year conforming loans rate and 10-year Treasury yield	Down 78

Quarterly mortgage volume and defaults

Indicator	Description	Change from December 31, 2008 to June 30, 2009
Mortgage originations	New mortgage loans	Up $290 billion to $550 billion
Foreclosure rate	Percentage of homes in foreclosure	Up 100 basis points to 4.30 percent

Sources: GAO analysis of data from Global Insight, the Federal Reserve, Thomson Reuters Datastream, and Inside Mortgage Finance.

Note: Rates and yields are daily except mortgage rates, which are weekly. Higher spreads (measured as premiums over Treasury securities of comparable maturity) represent higher perceived risk in lending to certain borrowers. Higher rates represent increases in the cost of borrowing for relevant borrowers. As a result, "Down" suggests improvement in market conditions for credit market rates and spreads. Foreclosure rate and mortgage origination data are quarterly. See previous TARP reports for a more detailed discussion (GAO-09-161 and GAO-09-296).

Though it is difficult to isolate the impact of TARP, economic and credit market indicators will provide important information as Treasury makes decisions about the future of the program. Treasury has recently released a report that begins to discuss the next phase of its stabilization and rehabilitation efforts and includes several indicators. Treasury's authority to purchase or insure additional troubled assets will expire on December 31, 2009, unless the Secretary submits a written certification to Congress describing "why the extension is necessary to assist American families and stabilize financial markets, as well as the expected cost to the taxpayers for such an extension." In the next few months, Treasury will need to make decisions about providing new funding for TARP programs. A set of indicators could serve as part of an analytical basis for such a determination.

Mr. Chairman, Ranking Member Shelby, and Members of the Committee, I appreciate the opportunity to discuss these critically important issues and would be happy to answer any questions that you may have. Thank you.

For further information on this testimony, please contact Thomas J. McCool on (202) 512-2642 or mccoolt@gao.gov.

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday afternoon, GAO posts on its Web site newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to www.gao.gov and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's Web site, http://www.gao.gov/ordering.htm.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm
E-mail: fraudnet@gao.gov
Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Ralph Dawn, Managing Director, dawnr@gao.gov, (202) 512-4400
U.S. Government Accountability Office, 441 G Street NW, Room 7125
Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

Please Print on Recycled Paper

PREPARED STATEMENT OF ELIZABETH WARREN

CHAIR, CONGRESSIONAL OVERSIGHT PANEL FOR THE TROUBLED ASSET RELIEF PROGRAM

SEPTEMBER 24, 2009

Chairman Dodd, Ranking Member Shelby, and Members of the Committee, thank you for the opportunity to testify today about the Troubled Asset Relief Program (TARP) and the work of the Congressional Oversight Panel.

I should begin by noting that, although I am the Chair of the Panel, the views I express today are my own, as I cannot speak on behalf of all of the other Panel members.

As we examine the year since the passage of the Emergency Economic Stabilization Act (EESA), it makes sense to consider where we were 12 months ago. By last October, major financial institutions that had stood strong for decades were wiped out of existence in a wave of acquisitions and bankruptcies. Others had been bailed out by the Government or were teetering on the brink of collapse. The stability of the American financial system was in serious question. The Secretary of the Treasury said that business credit was frozen.

Americans were deeply concerned. Home values were dropping, sending shock waves throughout the economy. Families had seen their savings evaporate, their home equity disappear, and their retirement account values plunge as the Dow continued to fall. The fear was compounded by uncertainty: confusion as to what had just happened, what would happen next, and how policymakers would respond.

TARP was offered as a centerpiece of the Government response: a $700 billion program, proposed by then-Secretary of the Treasury Henry Paulson, to stabilize the financial system. For a short while Treasury aimed to use TARP to purchase mortgage-backed securities and loans—which many came to call "toxic assets"—from major financial institutions. Before Treasury completed a single purchase, however, its strategy shifted to buying a wide range of financial instruments through at least 10 different subprograms. Using TARP funds, Treasury has now made significant investments in several hundred financial institutions, bought significant stakes in Chrysler and GM, and provided incentives for home loan modifications, reinvigoration of the market for asset-backed securities, and purchases of loans and real-estate based securities from banks.

From the outset, it was clear that such an enormous program would require enormous oversight. In the year since TARP began, the scope of oversight has only grown. Each of Treasury's new initiatives may serve a role in helping to restore financial stability, but each also raises questions about its design, its effectiveness, the clarity of its goals, and its mix of public costs and benefits.

The Congressional Oversight Panel, along with SIGTARP and GAO, was your creation to provide that oversight. You charged our Panel to "review the current state of the financial markets and the financial regulatory system" and to report to Congress every 30 days.

The Panel works closely with GAO and the Special Inspector General to ensure that our efforts complement rather than duplicate one another. We all want to ensure that the whole of our work is greater than the sum of its parts. The unique contributions of the Congressional Oversight Panel are that we are the only one of the three oversight bodies authorized to hold hearings, we submit monthly reports, and we are responsible for taking a big-picture view of the markets and the financial system. So far we have released 10 monthly oversight reports and two special reports on regulatory reform and on farm credit, as required by law. We have held 11 hearings so far, including six field hearings that have taken us to areas of the country hit hard by the financial crisis. As I testify to you today, other members of the Panel are continuing this work at a 12th hearing in Philadelphia, where they are exploring the effectiveness of current foreclosure mitigation efforts at helping homeowners stay in their homes.

Of all the questions that TARP raises, one that I am frequently asked as the Chair of the Panel is straightforward: "Has TARP worked?" It may be a simple question, but it has no simple answer. Partly this is because there is no single way to measure the health of our economy. EESA listed five specific objectives for TARP: to restore financial stability, protect home values and family savings, promote jobs and economic growth, maximize returns to taxpayers, and provide public accountability.

If a TARP program advances all five of these objectives at once, then no one would hesitate to call it a success. But what if a program advances only some of these goals, or even advances certain goals at the expense of others? How should we gauge a program that achieves greater financial stability by taking money from

taxpayers? Should we consider a program successful if it stabilizes the financial markets but produces no measurable gains in the broader economy?

The experience of the last year has demonstrated that these are not merely hypothetical questions. For example, on February 6, 2009, the day after my last appearance before this Committee, the Panel released a report evaluating Treasury's largest acquisitions of bank equity and warrants under TARP at that time. Despite the assurances of Secretary Paulson that the initial purchases of stock and warrants of the banks were made at full value, our analysis of the numbers showed that Treasury paid substantially more for these assets than they were worth. In fact, for every $100 spent by Treasury, it received assets then valued, on average, at only $66.

These capital purchases very likely helped to stabilize the financial markets, thereby achieving one of the key goals of TARP. But Treasury paid substantially more for the assets than their market value, subsidizing the banks at the direct expense of the taxpayer. Any discussion of success requires balancing these sometimes contradictory effects.

The Panel can contribute to this discussion by assembling the data and making recommendations. We can press Treasury for greater clarity, transparency, and accountability, but ultimately, the American people will decide if the right balance has been struck.

I would like to briefly expand upon these broad themes by describing each of the Panel's reports since my last appearance here, as they have explored a wide range of important topics.

In March, the Panel examined the causes of the foreclosure crisis and developed a checklist that provides a roadmap for foreclosure mitigation program success. Among the questions on our checklist: Will the plan result in modifications that create affordable monthly payments? Does the plan deal with negative equity? Does the plan address junior mortgages? And will the plan have widespread participation by lenders and servicers? The Panel plans to release an update to this report in October, using these metrics to examine how well the program has performed.

In April, the Panel looked back on the first 6 months of Treasury's TARP efforts and offered a comparative analysis of previous efforts to combat banking crises in the past. We found that the successful resolution of past financial crises involved four critical elements: transparency of bank accounting, particularly with respect to the value of bank assets; assertiveness, including taking early aggressive action to improve salvageable banks and shut down insolvent institutions; accountability, including willingness to replace failed management; and clarity in the Government response. Without those elements, a financial crisis is likely to create long-term economic problems.

In May, we surveyed the state of lending for small businesses and families and examined the Term Asset-Backed Securities Loan Facility (TALF). The report raised concerns about whether TALF was well-designed to help market participants meet the credit needs of households and small businesses. It also raised serious doubts about whether the program would have a significant impact on access to credit.

In June, we examined how effectively Treasury and the Federal Reserve conducted the stress tests of America's 19 largest banks. The Panel found that, on the whole, the stress tests were based on a solidly designed working model, but that serious concerns remained, including the possibility that economic conditions could deteriorate beyond the worst-case scenario considered in the tests. The Panel recommended that, if the economy continued to worsen, stress testing should be repeated. I should note that the 2009 average unemployment rate now appears likely to exceed the stress test's worst-case scenario, but so far Treasury has declined to call for a repeat of the stress tests. In light of the impact of unemployment on bank losses and the possibility of future large losses from commercial real estate, repeated stress tests may yet be necessary.

In July, the Panel examined the repayment of TARP funds and the repurchase of stock warrants. At that time, 11 banks had repurchased their warrants from Treasury. Once again, our analysis of the numbers indicated that the taxpayer had received only 66 percent of the Panel's best estimate of the value of the warrants. In order to ensure that taxpayers would receive the maximum value as banks exited TARP, the Panel urged Treasury to make its process, reasoning, methodology, and exit strategy absolutely transparent. We are pleased to note that since our July report was published, an additional nine large institutions have repurchased their warrants, generating receipts to Treasury of $2.9 billion, representing more than 94 percent of the Panel's best estimate of their values.

In August, we reported that substantial troubled assets backed by residential mortgages remained on banks' balance sheets and presented a potentially serious obstacle to economic stability. The risk to the health of small and midsized banks was especially high. The Panel recommended that Treasury and the bank super-

visors carefully monitor the condition of the troubled assets held by financial institutions and that Treasury should move forward with one or more initiatives aimed at removing troubled whole loans from bank balance sheets.

This month, the Panel examined the use of TARP funds in support and reorganization of the domestic automotive industry. We recommended that Treasury provide a legal analysis justifying the use of TARP funds in the auto industry. We further recommended that, in order to limit the impact of conflicts of interest and to facilitate an effective exit strategy from ownership, Treasury should consider placing its Chrysler and GM shares in an independent trust.

Since EESA was enacted 1 year ago, the apprehension that pervaded this country has turned into something else: frustration and anger. Taxpayers have committed over $531 billion through TARP, and although there is no doubt that the financial system has begun to stabilize, families are still feeling the pain of rising unemployment, rampant foreclosures, higher bank fees, and limited access to credit.

Today's fragile stability has come at an enormous cost to the American people. Taxpayers have a right to expect full clarity, full transparency, and full accountability in Treasury's use of their money. They also have a right to know what has fundamentally changed to prevent this crisis from ever happening again. It is time for our focus, which has been fixed upon avoiding short-term disaster, to expand to include this long-term thinking. We should explore ways to change the rules of the financial system to make certain that this economic crisis is not repeated—a topic that the Panel first considered in our special report on regulatory reform.

Thank you again for the opportunity to explain the work of the Congressional Oversight Panel. I look forward to answering your questions.

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN DODD FROM HERBERT M. ALLISON, JR.

Q.1. The Special Inspector General for the TARP has recommended to Treasury that all TARP recipients should publicly disclose their uses of the TARP funds they receive. His office indicates that Treasury has not agreed with this recommendation. Would you explain Treasury's response to his recommendation? What measure of transparency do you feel the public deserves?

A.1. Treasury is committed to transparency with respect to programs established under the Emergency Economic Stabilization Act (EESA).

We have carefully considered the SIGTARP's recommendation, and will issue reports that we believe will address the issues raised by SIGTARP. Specifically, our expanded quarterly report will cover, on both an aggregate basis and for each bank participating in CPP, all of the significant categories of uses reported in SIGTARP's Use of Funds Survey Responses, including lending, investments, capital cushion, repayment of debt and acquisitions. Moreover, our report will be based upon detailed financial information collected by bank regulators, and will specify the actual levels and changes of assets and liabilities related to each use of funds rather than simply identifying categories. Further, our report will be updated each quarter and will show how uses of capital by each CPP bank and by all CPP banks in the aggregate are changing over time. Finally, we continue to consider, evaluate, and discuss with SIGTARP additional ways to collect and report information about how banks are using TARP funds.

Q.2. It has been reported that Treasury's General Counsel sought advice from the Department of Justice as to whether Treasury was obliged to turn over certain documents to the SIGTARP. Subsequently, Mr. Barofsky said Treasury had withdrawn its request and that "We view such withdrawal as Treasury's acknowledgment that SIGTARP is an independent entity within Treasury, and that my office and I are not subject to the supervision of the secretary." Would you describe your understanding of the independence of the SIGTARP?

A.2. I am not an attorney, and have not formed my own views as to the proper interpretation of the relevant statutes. I can assure you, however, that Treasury has never refused to turn over any documents requested by SIGTARP, and that Treasury will continue to cooperate fully in SIGTARP audits and investigations.

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN DODD FROM NEIL M. BAROFSKY

Q.1. During the past year, each of you has overseen the Government's financial assistance to numerous financial institutions that nearly failed as a result of their mismanagement, assuming excessive risk, and being poorly regulated.

From this experience and your perspective, what advice would you give personally to the Committee about what legislation or additional reforms are needed to prevent future crises?

A.1. Although it is beyond SIGTARP's role to take specific positions with respect to the thorny policy questions facing the Congress on the issue of regulatory reform, it is clear that the existing system, whether in design or in application, failed to protect the American people from their responsible risktaking of systemically important firms.

One specific issue that has arisen repeatedly throughout SIGTARP's oversight work is the considerable power of credit rating agencies and their role in our financial system, in Government and in the current financial crisis, particularly with regard to ratings they provided for securities based on subprime mortgages. SIGTARP's latest Quarterly Report discusses some of the inherent conflicts of interest that the issuer-pay business model presents and describes the lack of meaningful regulation in this area. SIGTARP's report also discusses in detail how the U.S. Government reinforces the power of rating agencies by including in laws and regulations a reliance on high ratings. Further, SIGTARP's recent audit concerning the AIG credit default swap counterparty payments stands as a stark example of the tremendous influence of credit rating agencies up on financial institutions and up on Government decision making in response to financial crises. In the lead-up to the crisis, the systemic over-rating of mortgage-backed securities by rating agencies was reflected in the similarly overrated collateralized debt obligations that underlied AIG's credit default swaps. Once the financial crisis had come to a head, the credit rating agencies downgrades of AIG itself and of the underlying securities played a significant role in AIG's liquidity crisis as those downgrades and the related market declines in the securities required AIG to post billions of dollars in collateral. The threat of further rating agency downgrades due to the onerous terms of the initial FRBNY financing, among other things, led to further Government intervention, including the TARP investment in AIG and the necessity to do something with the swap portfolio, *i.e.,* Maiden Lane III. And the concern about the reaction of the credit rating agencies played a role in FRBNY's decision not to pursue a more aggressive negotiating policy to seek concessions from counterparties. All of these profound effects were based upon the judgments of a small number of private entities that operate on an inherently conflicted business model and that are subject to minimal regulation.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SHELBY FROM NEIL M. BAROFSKY

Q.1. *TARP's Effect*—Inspector General Barofsky, you stated in your testimony that "there is little question that the dramatic steps taken by Treasury, the Federal Reserve and the FDIC through TARP and related programs, in the face of what can only be described as panic conditions, played a significant role in bringing the system back from the brink of collapse."

How much of the rescue was actually attributable to the TARP program, which was dwarfed in size by other Federal Reserve and FDIC emergency relief programs?

A.1. It is impossible to state with any mathematical precision what portion of the solution to the panic conditions in financial markets in early October 2008 were attributable to TARP. As the question correctly points out, the TARP programs are just a portion of the overall Government efforts to stabilize the financial system. Indeed, to put TARP in to proper context, SIGTARP's July Quarterly Report lists and describes dozens of those non-TARP programs, amounting to trillions of dollars of support. That being said, TARP certainly played a significant role in restoring some confidence to the financial system, particularly in conjunction with the explicit message that the Government would not allow the largest financial institutions to fail. On October 14, 2008, for example, there were multiple press releases announcing the Federal Government's intent to protect the U.S. economy and restore confidence and stability in our financial system. These press releases announced (a) the FDIC initiatives to temporarily guarantee the senior debt of all FDIC-insured institutions and certain holding companies as well as deposits in noninterest bearing deposits transaction accounts and (b) the TARP investments in nine large financial institutions had agreed to accept TARP funds. These announcements had a dramatic effects at the time on reducing the cost of credit, freeing up credit markets and fostering confidence in the financial system, key objectives for the initial expenditure of TARP funds. The longer term effects of the TARP program are continuing to unfold and may not be fully understood for some time.

It is particularly difficult to quantify how much of the rescue was attributable to the TARP program because Treasury does not require TARP recipients to report how they used taxpayer funds, which is the recommendation that I made to Treasury within my first 2 weeks of taking office and which I continue to make. Although the failure of Treasury to adopt this recommendation ultimately is a failure of transparency, SIGTARP conducted its own survey of how the first 364 TARP recipients used TARP funds. The results of that survey show that 80 percent of the recipients used TARP money for lending or to avoid further reductions in lending. More than 40 percent of the respondents reported that they used TARP funds to help maintain capital cushions and reserves. Other uses reported include paying down debt, purchasing other banks and investing in agency-backed mortgage backed securities.

Q.2. *Comingling of TARP Funds*—Inspector General Barofsky, a substantial portion of TARP funds have been comingled with funds supplied by the Federal Reserve to create several bailout programs.

Do the various taxpayer protections of the TARP—including your own investigatory authority—cease to apply when TARP money is used as part of the Federal Reserve's bailout programs?

A.2. The taxpayer protections that are set forth in EESA, in the regulations promulgated under EESA and in the contracts with participants in TARP programs generally speaking only apply to the TARP programs themselves and do not extend to non-TARP programs. SIGTARP's authority applies, with only limited exceptions, to any actions taken under EESA and as a result SIGTARP asserts oversight authority, for example, over any instance in which TARP funds are involved in a program (whether Treasury

runs the program or not) and in instances when the TARP investments are part of a broader Government bailout. Accordingly, SIGTARP is actively engaged, among other things, in the oversight of the Term Asset-Backed Securities Loan Facility Program (TALF) (which involves Federal Reserve lending backed by TARP funds) and in AIG (in which TARP funds were expressly used to refinance the Federal Reserve infusions). SIGTARP is committed to investigate fraud, waste, and abuse anywhere in which it could affect taxpayer interests in TARP funds. Programs that do not involve EESA or impact TARP funds would not be within SIGTARP's oversight authority.

Q.3. Will you ensure that the Federal Reserve fully complies with all of TARP's provisions when it uses TARP funds?

A.3. As noted above, TARP funds are involved in the TALF program. More specifically, TARP funds were used to invest in a special purpose vehicle that will purchase and manage any collateral surrendered by TALF borrowers. To date there has been no surrender of collateral.

From SIGTARP's inception, SIGTARP has been active in working with Treasury and Federal Reserve staff over fraud prevention and compliance and control provisions related to TALF. In SIGTARP's first Report to Congress, for example, we made a series of recommendations about the design of the TALF program; further recommendations were made in our subsequent reports as well. SIGTARP has met regularly with the Federal Reserve, with FRBNY and with Treasury about the design of the program, and the program has been improved dramatically as a result from a compliance and fraud prevention perspective. Moreover, SIGTARP has formed a multiagency law enforcement task force to address any instances of wrongdoing with respect to the TALF program.

Q.4. *Bank of America/Merrill Merger*—Inspector General Barofsky, you are taking part in the efforts to investigate the circumstances surrounding the merger between Bank of America and Merrill Lynch.

Have you come to any conclusions about whether Treasury conditioned Bank of America's receipt of additional TARP funds on Bank of America proceeding with its merger with Merrill and whether this was inappropriate?

A.4. In SIGTARP's recently released audit entitled, "Emergency Capital Injections Provided To Support the Viability of Bank of America, Other Major Banks, and the U.S. Financial System," we detailed information indicating that Treasury officials pressured Bank of America to proceed with the merger. Former Treasury Secretary Henry Paulson told Bank of America CEO Kenneth Lewis that the Federal Reserve could remove Bank of America's management and the board of directors if Bank of America abandoned the merger. Mr. Paulson explained to SIGTARP that he was justified because of the risk to the financial system and that investors would perceive Bank of America abandoning the merger as poor judgment. In a deposition taken by the New York Office of the Attorney General, Mr. Lewis confirmed that Secretary Paulson made statements about removing Bank of America's management and board of directors. However, Mr. Lewis told SIGTARP that he independ-

ently came to the same conclusion that the potential failure of the merger would be harmful to the bank and that it was in the best longterm interest of the shareholders to complete the merger. Although in the audit SIGTARP does not opine as to whether Treasury's actions were appropriate, by bringing transparency to these events, the American public and this Committee can use these details to inform any conclusion about the appropriateness of Treasury's actions.

In the interests of protecting the integrity of the process, SIGTARP respectively requests that it be permitted not to comment upon any pending criminal investigation.

Q.5. *Bank of America SEC Action*—Inspector General Barofsky, one of the areas that you have focused on is the use of funds by TARP recipients.

Do you know whether or not Bank of America planned to use TARP funds to pay its proposed $33 million settlement with the Securities and Exchange Commission prior to the court rejecting that settlement?

A.5. We do not know whether Bank of America planned to use TARP funds to pay the settlement with the Securities and Exchange Commission announced on August 3, 2009. In response to a survey SIGTARP sent to the first 364 TARP recipients asking how they used TARP funds, Bank of America's March 9, 2009, response stated, "[t]he initial TARP investment was not segregated from other funds on Bank of America's balance sheet. Since all TARP investment funds are part of our operating capital, they cannot effectively be segregated." Bank of America included in its response that the TARP investments had been and would continue to be used to originate loans, conduct other financial business, increase capital position, and invest in other initiatives. Although this statement appears to set forth Bank of America's intention on use of the funds, this statement predates the announcement of the settlement with the SEC.

Q.6. Would this be an appropriate use of TARP funds?

A.6. Treasury placed very few restrictions on the appropriate use of TARP funds, particularly with respect to the first capital infusions made under the Capital Purchase Program. Paying a settlement with TARP funds would not appear to violate any aspect of Bank of America's agreement with Treasury.

Q.7. *Public–Private Investment Partnership*—Inspector General Barofsky, earlier this year, you made a number of recommendations to Treasury with respect to the operation of the Public–Private Investment Program. Among the recommendations rejected by Treasury was a recommendation that investment managers participating in the program set up walls to prevent them from managing the program funds in order to benefit the firm's other clients or proprietary accounts. Another rejected recommendation related to public disclosure about all transactions.

Does Treasury's rejection of your recommendations raise questions about whether the program will benefit the fund managers rather than the U.S. taxpayer?

A.7. SIGTARP continues to be concerned that Treasury did not require walls by PPIP fund managers because it leaves taxpayers vulnerable to the effects of the significant conflicts of interest facing fund managers. Although Treasury did not require a wall, Treasury did implement a series of important conflict of interest rules, many of which SIGTARP recommended, that are designed to address, in some part, the risk that the program will benefit fund managers rather than the U.S. taxpayer. SIGTARP's position remains that a strict ethical wall in addition to these measures would provide better taxpayer protection. At least one fund manager has enacted their own wall. SIGTARP also continues to recommend that Treasury publicly disclose PPIP transactions subject to reasonable protections to avoid dissemination of any confidential information that could harm taxpayers' investment.

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN DODD FROM GENE L. DODARO

Q.1. During the past year, each of you has overseen the Government's financial assistance to numerous financial institutions that nearly failed as a result of their mismanagement, assuming excessive risk and being poorly regulated.

From this experience and your perspective, what advice would you give personally to the Committee about what legislation or additional reforms are needed to prevent future crises?

A.1. Preventing future crises will entail addressing various weaknesses in our current regulatory system, in particular improving the oversight of risk management at large, complex financial institutions. Under the current system, no regulator has a clear responsibility to look across institutions to identify risks to overall financial stability. As a result, both banking and securities regulators have traditionally assessed risk management primarily at an individual institutional level. For example, as we reported in March 2009, even when regulators performed horizontal examinations across institutions, they generally do not use the results to identify potential systemic risks.[1] The Federal Reserve analyzed financial stability issues for systemically important institutions it supervised, but did not assess the risks on an integrated basis or identify many of the issues that later led to the near failure of some of these institutions and to severe instability in the overall financial system. In addition, although financial institutions manage risks on an enterprisewide basis or by business lines that cut across legal entities, primary bank and functional regulators have generally overseen risk management at the level of a legal entity within a holding company. As a result, regulators' view of risk management has been limited or overlapping or duplicative of those of other regulators including the holding company regulator.

In addition to improving oversight of the large financial institutions whose activities and size and most likely to precipitate a crisis, we reported in January 2009 that the current U.S. regulatory system has important weaknesses that, if not addressed, will con-

---

[1] GAO, *Financial Regulation: Review of Regulators' Oversight of Risk Management Systems at a Limited Number of Large, Complex Financial Institutions,* GAO-09-499T (Washington, DC: Mar. 18, 2009).

tinue to expose the Nation's financial system to serious risks.[2] In that report we offered a framework of nine characteristics that if embodied into a new regulatory system for the United States, should reduce the likelihood of future crises. These characteristics include:

- goals that are clearly articulated and relevant, so that regulators can effectively conduct activities to implement their missions;
- appropriately comprehensive coverage to ensure that financial institutions and activities are regulated in a way that ensures regulatory goals are fully met;
- a mechanism for identifying, monitoring, and managing risks on a systemwide basis, regardless of the source of the risk or the institution in which it is created;
- an adaptable and forward-looking approach allows regulators to readily adapt to market innovations and changes and evaluate potential new risks;
- efficient oversight of financial services by, for example, eliminating overlapping Federal regulatory missions, while effectively achieving the goals of regulation;
- consumer and investor protection as part of the regulatory mission to ensure that market participants receive consistent, useful information, as well as legal protections for similar financial products and services, including disclosures, sales practices standards, and suitability requirements;
- assurance that regulators have independence from inappropriate influence, have sufficient resources and authority, and are clearly accountable for meeting regulatory goals;
- assurance that similar institutions, products, risks, and services are subject to consistent regulation, oversight, and transparency; and
- adequate safeguards that allow financial institution failures to occur while limiting taxpayers' exposure to financial risk.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR SHELBY FROM GENE L. DODARO

Q.1. *Auditing the Fed's TALF Program*—Mr. Dodaro, your testimony claims that the GAO is prohibited from auditing the Federal Reserve's actions with respect to its Term Asset-Backed Securities Loan Facility (TALF). You also identify legislation that was passed in May of this year giving GAO authority to audit the Federal Reserve's actions with respect to TARP. However, you do not seem to believe that this legislation provided you with the authority to audit the TALF.

I believe that all interested parties came to an understanding that the May 2009 legislation gave the GAO the authority to oversee the joint Federal Reserve and Treasury actions taken with respect to the TALF. Why is it your belief that you do not already have the authority to audit the TALF?

---

[2] GAO, *Financial Regulation: A Framework for Crafting and Assessing Proposals to Modernize the Outdated U.S. Financial Regulatory System,* GAO-09-216 (Washington, DC: Jan. 8, 2009).

A.1. We would welcome any additional authority the Congress believes is appropriate. The TARP legislation tasks GAO with overseeing Treasury's TARP program and reporting on TARP's performance in meeting the purposes of the statute. Among other things, section 116(a)(1)(E) of the legislation requires us to oversee TARP's efficiency in using funds appropriated for the program's operations, which uses include TALF. Under TALF, the Federal Reserve Bank of New York will lend up to $1 trillion, if needed, to help the securitization markets, and Treasury will provide up to $20 billion of credit protection. Because the TARP legislation already requires us to oversee all of Treasury's TARP activities, including its participation in TALF, and because of the unusual joint Federal Reserve/Treasury nature of TALF, we believe we require audit and access authority with respect to both the Federal Reserve's and Treasury's TALF activities in order to carry out our existing responsibilities most effectively. However, GAO lacks authority to audit the Fed's TALF activities; the Federal Reserve believes these are part of its "monetary policy" activities that GAO is prohibited from auditing under the Banking Agency Audit Act, 31 U.S.C. §714. Legislation enacted in May 2009 gives GAO new authority to audit certain recent Federal Reserve emergency actions—actions taken to assist "a single and specific partnership or corporation," which thus far has included three entities also receiving TARP assistance, namely, Citigroup, AIG, and Bank of America. However, the Federal Reserve's TALF is not a "single and specific partnership or corporation" and thus is not covered by this new authority. We therefore would support legislation giving GAO authority to audit the Federal Reserve's TALF actions, together with appropriate access, as well as any other authority Congress may provide us.

RESPONSES TO WRITTEN QUESTIONS OF CHAIRMAN DODD FROM ELIZABETH WARREN

Q.1. During the past year, each of you has overseen the Government's financial assistance to numerous financial institutions that nearly failed as a result of their mismanagement, assuming excessive risk, and being poorly regulated.

From this experience and your perspective, what advice would you give personally to the Committee about what legislation or additional reforms are needed to prevent future crises?

A.1. In January 2009, the Congressional Oversight Panel produced a Special Report on Regulatory Reform as required by Congress. The report describes how to limit the risk of future crises and is available on the Panel's Web site at: *http://cop.senate.gov/documents/cop-012909-report-regulatoryreform.pdf.*

In my view, two proposals from this report are critical to protecting the American financial system and preserving the ability of families to build wealth.

First, it is important to remember that this financial crisis began one household at a time. Bad mortgages, combined with high household debt loads overall, were the central trigger for the financial meltdown. In effect, if high-risk products are fed into the financial system, those risks can aggregate and bring down the entire economy. Congress should establish a Consumer Financial Protec-

tion Agency (CFPA) to ensure the basic safety of consumer credit products. The CFPA would require clear, transparent, and comprehensible disclosures of consumer credit products so that customers can make informed decisions on their use of credit. Lenders could no longer trick and trap consumers with obscure fees buried in dozens of pages of fine print. The CFPA would also streamline and coordinate consumer protection by combining under one roof the regulatory authority that is now spread across seven Federal agencies. Just as importantly, the CFPA would demonstrate that consumer protection is a key goal of financial regulation—that it is not a minor objective to be subordinated as a means to other ends, but rather that the protection of consumers is an end in itself.

Second, Congress should end the era of "Too Big to Fail" by restoring a credible threat of failure for the largest financial institutions. America's market economy depends on the notion that, when people make mistakes, they must bear the price—up to and including the ultimate economic price of bankruptcy. This threat of failure hangs over every small business, every small bank, and every individual in this country, and the constant threat of bankruptcy forces them to handle their money with appropriate caution. Unfortunately, "Too Big to Fail" has signaled to the marketplace that America's largest banks no longer face the threat of liquidation, and this perception distorts markets and promotes irresponsible risk-taking. Before any taxpayer money can ever be used to stabilize a failing company, it must be clear that the company's shareholders will be wiped out, their management team replaced, and their debt holders forced to take their losses. Taxpayer dollars must never be used again to prop up failing companies that are then allowed to profit at taxpayer expense. Congress should create a strong resolution authority and make it clear that no institution, no matter how large, can dodge the consequences of its own bad decisions.

Other, further reforms are also critical. As detailed in the Panel's report, lawmakers should also take steps to align executive pay with long-term corporate interests, regulate derivatives and hedge funds, and reform the credit rating agencies.

Q.2. In a recent report the COP panel outlined its concerns with regard to the use of TARP funds to support the domestic automobile industry. In particular the panel noted that Treasury has not provided a legal justification for this use of TARP funds or "clearly articulated its investment objectives."

Has Treasury responded to your request for clarification?

Could you explain your concern with regard to legal analysis justifying the use of TARP funds? As you see it now, what are the legal limitations on the use of TARP funds to bailout other nonfinancial industries?

Why is it important for the Treasury to outline investment objectives for car companies? Are you satisfied that the Treasury is being a diligent and prudent investor while not interfering in the affairs of the car companies? Is it possible to do both?

A.2. Treasury has declined to provide the Panel with a detailed analysis of its legal authority to use TARP funds to invest in the domestic automotive industry and has not provided a response to

our concerns regarding the absence of clearly articulated investment objectives.

The Congressional Oversight Panel found that Treasury's authority for its use of funds under the Troubled Asset Relief Program (TARP) to support the domestic automobile industry was "unclear." We further noted that the Panel is unaware of any court before which the issue is currently pending and there are no parties that would appear to have standing to challenge the issue. In order for Congress and the American public to understand the potential for Treasury to use TARP funds to assist other struggling industries, we urged Treasury to provide a legal analysis of its authority.

The Panel found although taxpayers may recover some portion of their investment in Chrysler and GM, it is unlikely they will recover the entire amount. Absent clearly articulated investment objectives, it is impossible for the American public to determine if this indeed represents a failure of Treasury's strategy.

Treasury has acted in a commercial manner in negotiating the auto deal, but it has not managed the resulting shares in Chrysler and GM the way a commercial shareholder would do. Instead, because of the potential conflicts, it has announced its intent to remove itself from influencing the management of the companies, leaving, in the case of GM, the minority shareholders in control. To limit the impact of potential conflicts of interest and to facilitate an effective exit strategy, the Panel recommended that Treasury consider placing its Chrysler and GM shares in an independent trust that would be insulated from political pressure and Government interference.